

From: Kevin Beattie <beattiehouse@hotmail.com>
Sent: Friday, March 19, 2010 12:11 AM
To: secretary <secretary@CFTC.gov>
Subject: cftcfeedback@fxdd.com

We are all well aware of the risks of leverage it has already been reduced to 100 - 1 that is low enough, please leave it alone.

Kevin Beattie (active forex trader)

From: WAQAS MALIK <numalik@hotmail.com>
Sent: Friday, March 19, 2010 1:04 AM
To: secretary <secretary@CFTC.gov>; cftcfeedback@fxdd.com
Subject: protest against the new leverage regulations

To CFTC regarding leverage rules for forex

please donot reduce leverage down to 1:10 for forex traders as that will be the end for small traders like me and will only benefits big players like banks etc..

Please keep leverage at 1:200 for forex trades.

Thanks
Waqas Malik

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From: Julio Julian Herdz Fedz <juliojulian48@yahoo.com.mx>
Sent: Friday, March 19, 2010 1:47 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

RIN 3038-AC61

Hello, I am from Mexico and I have read the possibility to decrease the amount of leverage to 10:1.
My first thought while I was readying it was that a lot of people are going to take out their money to a foreign broker.
I am planning to trade little amount of money from my parents and friends, they will put a relative small amount each one, but with this 10:1 leverage it is imposible to make a respectable return for them.

I think this is a very bad news for me and my plans and probably I will think to move to a foreign broker because it is not posible to make a respectable return for this leverage for everybody.

I hope this comment serves as a constructive retroalimentation.

My best regards

Julio Hernández

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From: Sharon Farina <sefarina@usa.net>
Sent: Friday, March 19, 2010 1:54 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Dear Mr. David Stawick, Secretary, CTFC and ALL CFTC policymakers:

I am appalled to recently find out that buried deep within the Farm Bill of 2008 the CFTC has been given greater regulatory authority over a wide range of derivatives, as well as regulating Retail Forex. Can you please explain to me why a Farm Bill contains provisions for Retail Forex? Maybe it's time for the American public to wake up and realize how the government really operates by railroading their agenda through unrelated bills.

I strongly oppose the proposed regulatory changes that reduce the current leverage from 100:1 to 10:1, which is currently in place by the NFA.

If this proposal passes, it would have an extreme negative impact across the United States as well as the world. Retail Forex traders could no longer have their account with a broker within the US, because most do not have enough capital to trade with 10:1 leverage. Instead, they would move their account overseas to countries with much less regulations imposed on brokers, which also might have a negative impact, but they could receive the same or better leverage and continue to trade. This in turn would also effect US brokers, who would either go out of business or move overseas, which would mean losses of thousands of high level jobs to an economy that is already suffering greatly with a high unemployment rate.

Forex traders do their homework before trading in a live account with great education that can be free or very affordable, opening up a "demo" account to practice before going live. Once they open an account, the most they can lose is the amount they've invested in it. On the other hand, investing in futures, one can lose a whole lot more than an initial investment.

Thank you very much for your consideration of leaving the leverage where it currently is set.

Regards,
Sharon Farina

Sharon Farina
Dallas TX, 76040
sefarina@usa.net

From: Dagmar Jangl <djweb08@gmail.com>
Sent: Friday, March 19, 2010 2:30 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

To: David Stawick, Secretary, Commodity Futures Trading Commission

Dear Mr. Stawick

Should the 10 to 1 leverage rule proposed by the CFTC be adopted:
Funded accounts currently in the U.S. system can be expected to go offshore.

Forex fraud may worsen, not improve. Unregulated dealers from around the world will thrive, while operating without requirements for capital adequacy, risk management models, marketing ethics, dealing practices or even returning of customers funds.

The United States may cost itself millions of dollars in trade revenue.

Thousands of white collar jobs that require an advanced education and range from software developers to accountants to foreign exchange dealers may be eliminated, or move out of the United States.
Let's be sensible, don't enforce the rule on the market if the current market is win-win for both sides!

Dagmar

From: tjien kiong ng <tjienkg@gmail.com>
Sent: Friday, March 19, 2010 2:53 AM
To: secretary <secretary@CFTC.gov>
Subject: i am from indonesien and have vote against the leverage forex requirement. because us will have difficulty with the global world .thank you

--
ng tjien kiong

From: Stan Johnson <fxtrader22@verizon.net>
Sent: Friday, March 19, 2010 3:00 AM
To: secretary <secretary@CFTC.gov>
Cc: fxtrader22@verizon.net
Subject: Stupid rule proposed

Dear David:

If you want all the traders to go over seas, and loose all that tax money and jobs then pass this dumb rule. Who are you paid by? It is us traders that your check comes from. Try to respect the will of the traders and not pass this.

Stan

From: James McMahon <jamesj1939@gmail.com>
Sent: Friday, March 19, 2010 3:37 AM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: 'Regulation of Retail Forex'

RE: **RIN 3038-AC61.**

As a small retail fx trader I object to the proposed rules changes, particularly that limiting the leverage to 10:1. Yes, it will knock me out of the ball game and deprive me and others of the profits we can make. Consider also, the dreams and entertainment many small traders enjoy, win or lose. This is no small matter.

I believe most traders are aware or quickly become aware of the fraud that is out there, and your protection will not help those who continually fall prey to the thieves. They will only go elsewhere to pursue their foolishness.

Regards,
JamesJ

From: xiaozhuyun131452@qq.com on behalf of
天涯醉心人 <xiaozhuyun131452@qq.com>
Sent: Friday, March 19, 2010 3:53 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

i object the law of leverage lowed to 10:1.RIN 3038-AC61

From: Mark R Diehl <markrdiehl@msn.com>
Sent: Friday, March 19, 2010 4:17 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Re: RIN 3038-AC61

Gentlemen:

I am writing to comment on the CFTC's proposed new retail forex industry regulations.

First, let me commend you on your past success in curbing fraud and abuse in the retail forex industry. Over the five years that I have been trading spot forex, I have seen tremendous improvement in the conduct of brokers, IB's, fund managers, and forex educational organizations. Their advertising, in particular, has been dramatically cleaned up over the past five years. And these improvements are due entirely to sound, and measured, regulatory oversight and enforcement.

Most important, in my view, has been the strengthening of the internal finances of retail forex brokers. The recent incremental increases in forex broker capitalization have strengthened the better brokers, and driven out those brokers who were too weak to survive. These successes are due entirely to the CFTC's wise and prudent use of regulatory power. Again, I commend you.

In my view, that same wise and prudent use of regulatory power is evident throughout the current proposed regulations, referenced above, with one exception; the exception is the proposed new margin requirement for retail forex. I believe that increasing the required margin on retail trades to 10% of notional value would be counter-productive. Worse, I believe that it would undermine the retail forex industry in this country to such an extent that the industry likely would not survive.

Most retail forex traders here, and elsewhere in the world, commit margin of 1% (or less) of notional value to each trade. Some traders enjoy even lower margin requirements. The problem with a 10-fold (or greater) increase in required margin --- as currently proposed --- is that it drastically increases the cost, to the trader, of engaging in retail forex trading, without reducing his risk, or providing any other benefit to him.

If the current proposed increase in margin becomes law, I believe that many U.S. forex traders --- possibly, most U.S. forex traders --- will find that trading through a U.S.-based broker is no longer cost-effective.

Foreign exchange trading is dispersed worldwide; in this regard, it is more global than any other form of trading. Because traders can have instant, electronic access to the worldwide forex market from anywhere in the world, and can easily trade through brokers who are half a world away, I fear that hindering their trading activities here in the U.S. will simply drive their accounts off-shore, to less restrictive locales. Specifically, I fear a mass exodus of retail trading accounts to Britain, or Cyprus, or any of a dozen countries competing for the business which America will have lost. In a worst-case scenario, such a mass exodus could irreparably harm, or even bankrupt, U.S.-based forex brokers.

I trade retail forex full-time, as my livelihood. My first retail forex account, opened in 2005, was with a U.S. broker; and I have remained with that broker to this day. Going forward, I would like to be confident that U.S. forex brokers will be the strongest, most trustworthy and best regulated forex brokers in the world. But, instead, I fear that the current proposed 10% margin requirement --- if it were to become law --- will drive them out of business.

Recently, the National Futures Association (NFA) has adopted, as limits, 100:1 leverage (1% margin) on trades involving major currencies, and 25:1 leverage (4% margin) on trades involving all other currencies. These limits now apply to NFA-member brokers, including my own broker. In my view, these limits are a bit too restrictive.

I would like to suggest that the CFTC amend its proposed margin requirement to 1% of notional value (corresponding to 100:1 leverage) for all retail forex trades.

Thank you for your consideration of my comments.

Very truly yours,

Mark Diehl
Baltimore, Maryland

From: email@addthis.com on behalf of
brownp@forextrader.com
Sent: Friday, March 19, 2010 4:35 AM
To: secretary <secretary@CFTC.gov>
Subject: U.S. Commodity Futures Trading Commission - Ensuring the Integrity of the Futures and
Options Markets

Regulation of Retail Forex.

Please vote "NO" on RIN 3038-AC61 . Thank you.

<http://www.cftc.gov/index.htm>

This message was sent by brownp@forextrader.com via <http://addthis.com>. Please note that AddThis does not
verify email addresses.

Make sharing easier with the AddThis Toolbar: <http://www.addthis.com/go/toolbar-em>

From: brianbarker@fsmail.net
Sent: Friday, March 19, 2010 6:23 AM
To: secretary <secretary@CFTC.gov>
Subject: Leverage on currency trades

Dear Sir

As a non-american currency trader with Oanda, I must tell you that if trading leverage is reduced to anything like the level you suggest, I shall definately take my custom away from the US jurisdiction to another jurisdiction. This will, of course, mean a loss of foreign trade to the US economy.

B.Barker.

From: LuoJiangNing <fzljn@hotmail.com>
Sent: Friday, March 19, 2010 6:24 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex_oppose the 1:10 leverage

Identification number RIN 3038-AC61

why oppose the proposal of 1:10 leverage:

- Funded accounts currently in the U.S. system can be expected to go offshore.
- Forex fraud may worsen, not improve. Unregulated dealers from around the world will thrive, while operating without requirements for capital adequacy, risk management models, marketing ethics, dealing practices or even returning of customers funds.
- The United States may cost itself millions of dollars in trade revenue.
- Thousands of white collar jobs that require an advanced education and range from software developers to accountants to foreign exchange dealers may be eliminated, or move out of the United States.

Thanks,
Michael

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From: eugene timpson <tpim847@gmail.com>
Sent: Friday, March 19, 2010 6:46 AM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: 'Regulation of Retail Forex'

RIN 3038-AC61

-- to whom it may concern; i for one would definetly not be in favor of the proposed higher margin requirements on forex trading, simply because it would give the "little people" with very little start up cash to be able to continue learning and trading as freely as i'm currently able to do now with the lower margin, or worse be forced to abandon my mini account to have to use a micro account, which has not operated as smoothly and with the same precision, thank you for allowing me this time to speak my mind on this very important issue

eugene a timpson

From: Steve Heiland <heilandsigns@verizon.net>
Sent: Friday, March 19, 2010 6:47 AM
To: secretary <secretary@CFTC.gov>
Subject: Proposed 4x Regulations

Dear sirs,

I thought the idea of offering an affordable, and regulated market at 100 to 1 would allow we Americans to trade on the 4x market safely without having to risk using an off shore broker that would fall under some other jurisdiction. I don't understand where limiting trades to a 10 to 1 helps anyone...rather ruins a wonderful opportunity for many, forcing them out of the market or somewhere overseas.

Please continue to allow us to use the 100 to 1 leverage here in the USA.

Steve Heiland

From: Chenoa Johnston <chenoadj@gmail.com>
Sent: Friday, March 19, 2010 7:03 AM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: Re: CFTC Rules for Retail Forex

Further Comment!

You want to do what! Force the Introducing Broker to be tied to only one broker? **OMG more BS!** So tell me then, how do I as a trader or consumer or customer of Forex Brokers get impartial educated information on whether a broker is right for me at all? It's BS. I actually need the services of an IB who represents many brokers to give me the goods and assist me in finding the right broker for me, and then use the services of that IB to stand up for me in any disputes I may have with the broker. By forcing IBs to be tied to only one broker **I will never be able to trust an IB to work on my behalf! They will always represent the broker! Plus I will have to sift through piles of crappy bulletin boards to find the kind of answers I need an IB to answer for me!**

Once again you are proving your level of ignorance about an industry you are supposedly in charge of.

Maybe you need a few of us to join you as consumer advocates to understand what the hell you need to do!

Chenoa Johnston

Forex Trader

From: abdelhak ziani <atlascent@gmail.com>
Sent: Friday, March 19, 2010 7:18 AM
To: secretary <secretary@CFTC.gov>
Subject: rin 3038-ac61

hello,

the regulation of retail forex ,if it is implemented it's going to affect negatively the collect of taxes from the traders,also it's going to open the door for a malpractice and uses the account of investors by the newly certified brokers in other country because of the lack of the transparency and credibility .n my view if this regulation is implemented it's going to be a big mistake.
best regards.

From: Alan Diede <chso431@centurytel.net>
Sent: Friday, March 19, 2010 7:48 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

To the Secretary, David Stawick, Commodity Futures Trading Commission,

This email is regarding proposed rule, RIN 3038-AC61

I am sending you this email to make a quick comment on the proposed CFTC regulations requiring trader registration and proposed limited leverage.

I understand the need for regulation to insure the integrity of the system overall, and I am not opposed to that. I currently trade a micro account. I use a 100:1 leverage which is sufficient for my learning system.

I would support all traders registering with the CFTC and NFA in an effort to hold people accountable for their trading and actions.

I have very strong concerns that limiting leverage to 10:1 will eliminate the micro traders, such as myself, from utilizing the electronic trading system. Right now the system is set up so that it is accessible to all traders, including those of us who have limited risk capital.

Please remember, just because we have limited risk capital, does not mean that we have nothing to offer. One of the greatest aspects of this system is that you can start with a small amount of money and try to carve out some success for yourself as a trader. Start small and build your account in to something substantial.

I don't know if that will ever happen, but the dream that it could is alive and well.

Second, think of how many traders will send their money out of the USA to another country where their small risk capital is welcomed. I will be one of them if the proposed leverage rule is implemented.

Please, don't send us away. How about limiting the the number of lots based on the amount of equity in the account? If people are getting in trouble based on the leverage they're using, limit their ability to overleverage. Don't regulate and punish everyone based on what a few are doing.

If you're going to discipline certain people within a group, get out a gun with a scope so you can pinpoint the problem people, don't use a shotgun and blast everyone.

I know I said this was going to be quick comment and now I've rambled on too long.

Thank you for your time,
Alan Diede

From: shittu adejoke <jokesh2007@yahoo.com>
Sent: Friday, March 19, 2010 7:50 AM
To: secretary <secretary@CFTC.gov>
Subject: regulation of retail forex

the proposed regulation should not be adopted because of the inherent danger of exposure

From: Chima Fausta <chimannodum2025@yahoo.com>
Sent: Friday, March 19, 2010 9:10 AM
To: secretary <secretary@CFTC.gov>
Subject: regulation

I am trading from Lagos ,West Africa.We the Forex Traders from Lagos are not in surport of the proposed regulations on forex trading.It is discouraging.

From: Randy Ball <nazgulian888@gmail.com>
Sent: Friday, March 19, 2010 9:26 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

I am shocked and appalled at the proposed regulations on the Spot Forex market and am writing this email to voice my concerns. Lowering the leverage potential on this market will rob the lower income brackets of the population, be it fixed income retirees that don't want to risk their nest egg but want to trade, students who are getting their feet wet and learning to trade while still accumulating their stake for futures trading or daytrading stocks, and the growing number of forex hobbyists who greatly enjoy trading forex as a past-time, not as a retirement plan but as a fun and exciting way to participate in the global marketplace.

Dropping the Forex margins will require significantly more funding to trade, thereby taking this market out of the reach of those who are not already wealthy, in a sort of class war scenario where the privileged consolidate their power and cut off the means for the lower "castes" to enjoy the same activities. This to me was the great appeal of Forex was that it was the most democratic of the financial markets, allowing anyone from any class of society to participate and learn about the global marketplace. Many of those that start at Forex move on to other markets and a few become very successful using this system of gradual development. Allowing greater margins allows for greater access, and unless keeping this market "rarefied" and keeping the peasants out (so to speak) like some royal gentleman's club is your model for these actions I think that taking this market away from the people is a crime and a travesty in the face of the American Dream where a person can still pull themselves up by the bootstraps if they are smart enough to find those opportunities.

Regulate the brokers if you want but leave the leverage alone. Don't cut off access to the market from millions of people.

From: DavidH2837@aol.com
Sent: Friday, March 19, 2010 9:48 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail FX

Dear Secretary,

I am writing concerning the proposal to restrict forex trading to 10:1.

I appreciate the fact that CFTC is attempting to improve the forex trading market and protect retail traders like myself.

However the particular proposal to limit leverage I believe would do more harm than good.

Many of us trading the retail forex market make our living from this activity on a daily basis. By restricting our participation to this level it would severely limit our ability to make a living.

In this economy with the scarcity of jobs and limited opportunities, the ability to make a living by trading is vital to many of us in forex market.

I would strongly urge you to keep the current leverages in place to allow us the freedom to function in this market and make a living.

Sincerely,

David W. Hale

From: merckfan@sina.com
Sent: Friday, March 19, 2010 9:52 AM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: Regulation of Retail Forex

ID No. **RIN 3038-AC61**

Dear Sir/Madam,

As a retail FX trader, I am so sorry to hear the proposal of reducing retail FX leverage, and I think it would inevitably impact the FX trading industry, and the necessary economic benefit that would bring to the society.

Yours Sincerely

Merck

From: Dave Ranney <daveranney@verizon.net>
Sent: Friday, March 19, 2010 10:02 AM
To: secretary <secretary@CFTC.gov>
Cc: daveranney@verizon.net
Subject: Regulation of Retail Forex

RIN 3038-AC61

From: Dave Ranney in Jarrettsville, MD

Please leave the Leverage requiremnents for Forex Trading inplace as they currently exist. I am a small independent trader a portion of my income is derived from FX trading.

--

This mail was sent via IB Coalition <http://ibcoalition.org/take-action/>

From: Yifan <yifanfan@msn.com>
Sent: Friday, March 19, 2010 10:14 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

RIN 3038-AC61

Dear Sir/Madam,

Thank you for asking for our opinions about reducing FX leverage to 10:1.

In my personal view, a leverage of 10:1 would no longer make the fx market as attractive as before, and I would definitely consider stopping fx trading to invest in other fields.

Thanks and regards,

Yifan

From: John Dunn <john@nwanetworks.com>
Sent: Friday, March 19, 2010 10:12 AM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: Proposed 10:1 leverage limitation

Dear Sir,

Over the past 18 month's I have been learning to trade the FOREX market, I have been successful and look forward to a rewarding career as a retail trader. I have employed an account with 200:1 leverage, and using conservative trading strategies done very well.

I have no intention of limiting myself to a 10:1 leverage account. So if this passes, I will take my account to an overseas broker, most likely in the UK, thus depriving a US based firm my business. Of my peers that I stay in touch with, this is the prevailing response to be expected.

I will include some facts and figures that I assume you have seen before, but the bottom line is, this proposed regulation will cost our country, jobs, tax revenue and will force traders into overseas markets possibly exposing themselves to greater risk due to less regulation.

Respectfully,

John Dunn
US Citizen

- Today the U.S. retail forex industry can boast hundreds of thousands of live accounts. Should the 10 to 1 leverage rule be adopted 90% of those accounts can be expected to go offshore. And the first place they'll go is to the United Kingdom where customers can trade with leverage as high as 200 to 1.

- The U.S. retail forex industry (forex dealers and introducing brokers) employs thousands of people. The vast majority of these jobs are high paying, white collar jobs that require advanced education and range from software developers to accountants to foreign exchange dealers. The industry is just as much a high tech industry as it is a financial services industry.

- The domestic industry's revenue is well over \$1 billion. This revenue is money generated from a product that is in many ways an export. Furthermore, as capital markets open in the BRIC countries the number of new accounts that will flow out of places like China and India will lead to huge job and revenue gains in the United States. Trillions of dollars of trade volume are at stake. This is money that could (and should) be booked in the United States as taxable revenue. But if this rule passes the United States could well be costing itself billions of dollars in taxes down the road.

- The problem of Forex fraud will get worse absent legitimate dealers offering retail forex. Retail forex fraud is not something that is caused by the actions of retail forex dealers; rather it is caused by unlicensed con-men who masquerade as forex experts promising silly and unjustifiable returns before disappearing with customer funds. That is why the FXDC fully supports the CFTC's rule requiring all introducing brokers be licensed. That rule will solve forex fraud, not 10 to 1 leverage.

- The 10 to 1 leverage rule will be highly unpopular with traders. The fact is 100 to leverage is very popular with the retail forex trading public. They simply will not accept 10 to 1 leverage.
- Unregulated dealers from around the world will also be the beneficiaries of the 10 to 1 leverage

rule. These unregulated forex dealers don't have to worry about capital requirements, risk management models, marketing ethics, dealing practices or even returning a customer's funds. These dealers will be out of the reach of the CFTC and they will thrive.

The case against the 10 to 1 leverage rule is clear. The rule will be a boon to foreign forex dealers (both regulated and unregulated) who will grow entirely at the expense of retail forex dealers in the United States. Thousands of high paying jobs will be lost and the potential for tens of thousands of more jobs will forever vanish as well. Consumers will be hurt and more vulnerable to fraud. And the United States will toss away one of the most promising export industries that it has, all in the midst of 10% unemployment. There is no good reason that this should be so.

John Dunn

Office: 479 236 6413

Home: 479 899 6667

"When you are courting a nice girl an hour seems like a second. When you sit on a red-hot cinder a second seems like an hour. That's relativity." Albert Einstein

From: William Jones <pappybilljones@sbcglobal.net>
Sent: Friday, March 19, 2010 10:41 AM
To: secretary <secretary@CFTC.gov>
Cc: pappybilljones@sbcglobal.net
Subject: RIN 3038-AC61

CFTC Commissioners

I wish to voice disapproval of the proposed change of regulations involving retail forex trading. It is interesting that some of the commissioners were involved with the legislation that caused the housing boom and then the worst financial disaster in our countries history. The two acts were Gramm-Leach-Bliley Act (Financial Services Modernization Act of 1999) and the Commodities Futures Modernization Act of 2000. Now here you come ten years later to work your mischief again, to manipulate the markets more for the benefit of your special interest friends.

Your plan is to manipulate the marketplace through regulatory fraud against individual retail traders by creating different trading rules for different participants, creating an unlevel playing field. The goal (class warfare) of course is to drive as many American individual traders out of the American Markets, so the Big Dogs have the Sandbox to themselves and greater control of the market. Your action is to be expected as the Government moves deeper and deeper into the American Totalitarian political and economical system. The definition of freedom is a condition of being free of restraints. Your proposed changes are oppressive restraints on my individual freedom and that of public liberty. I strongly suggest the **CFTC not approve the proposed regulation changes.**

Respectfully,

William R. Jones
pappybilljones@sbcglobal.net
recapturefederalism.com

From: Mark Gavrish <m.gavrish@beachdesignngroup.com>
Sent: Friday, March 19, 2010 10:48 AM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: Regulation of Retail Forex

I am vehemently opposed to the proposed reduction in retail FOREX leverage. This will not only hurt many small traders throughout the country, but also many brokerage firms as well. This will also serve to drive trading business and dollars out of the US and into other countries that are more trader friendly. This is another reason that so many Americans, in record numbers are taking themselves and their money into other countries.

In hurting this many traders, you also hurt yourself as it is these very traders that help to feed this parasitic government.

Please, for your benefit and ours, do not reduce the leverage protocol. Ignorance comes with a price and like many other areas in life, we need to take responsibility for our own actions.

Let us not be ignorant!!!

RIN 3038-AC61

Mark Gavrish
Virginia Beach, Virginia

From: Alvan Donald <adonald@sidingmd.com>
Sent: Friday, March 19, 2010 11:09 AM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: proposed forex regulation

To whom it may concert

I am opposed to the newly proposed ' REGULATION OF FOREX RETAIL ' , I.D. #RIN3038-AC61

THANK YOU

Alvan Donald

From: Knowland, Randy <Randy.Knowland@kniferiver.com>
Sent: Friday, March 19, 2010 11:14 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

ID # RIN 3038-AC61

If it ain't broke , don't try to fix it. Our government has their hands in to much of "the peoples" stuff as it is. This will only make it harder for new people to get into forex trading.

LEAVE IT ALONE !!!!!!! it's not yours, nor do we need u to get involved in this, at ANY level.

Randy Knowland

From: dave jackson <chevy2448@hotmail.com>
Sent: Friday, March 19, 2010 11:42 AM
To: secretary <secretary@CFTC.gov>
Subject: REGULATION OF RETAIL FOREX

RIN 3038-AC61

I OBJECT TO THE REDUCTION IN LEVERAGE IN THE FOREX MARKETS. IT IS HARD ENOUGH TO MAKE A LITTLE MONEY NOW IN THE MARKETS. IT WILL BE IMPOSSIBLE FOR THE MANY SMALL TRADERS LIKE ME, TO EVEN TRADE IF THIS HAPPENS.

MOST ALL OF US DO NOT HAVE THAT MUCH MONEY TO PUT DOWN FOR EACH TRADE, THE HIGH LEVERAGE IS THE ONLY WAY WE CAN MAKE A LITTLE MONEY.

MY MANUFACTURING JOB WENT TO MEXICO IN 2001.

I'VE LOST 3 OTHER JOBS SINCE AND IT IS A STRUGGLE TO FIND A JOB AND JUST TO SURVIVE IN THIS ECONOMY.

I AM UNEMPLOYED RIGHT NOW AND CAN'T FIND A JOB. THE ONLY HOPE FOR ME AND MY FAMILY IS TO TRADE THE FOREX.

IF THIS LEVERAGE REDUCTION TAKES PLACE IT WILL KILL ME AND THOUSANDS OF OTHER SMALL TRADERS LIKE ME TRYING TO MAKE A LITTLE EXTRA MONEY TO SUPPORT THEIR FAMILIES.

PLEASE PLEASE STOP IT, DON'T LET THIS HAPPEN, WE DEPEND ON THIS HIGH LEVERAGE FOR SURVIVAL.

THANK YOU, DAVE.

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From: hassan arzika <arzika2005@yahoo.co.uk>
Sent: Friday, March 19, 2010 11:45 AM
To: secretary <secretary@CFTC.gov>
Subject: Opinion

I don't think 10:1 is good 5:1 is better.

From: ALLAN PERSON <personproduct@sbcglobal.net>
Sent: Friday, March 19, 2010 11:49 AM
To: secretary <secretary@CFTC.gov>
Subject: RIN 3038-AC61

I know you guys may feel some of your current changes regarding RIN 3038-AC61 may be to help our countries financial position but Please consider the following.

Should the 10 to 1 leverage rule proposed by the CFTC be adopted:

Funded accounts currently in the U.S. system can be expected to go offshore.

Forex fraud may worsen, not improve. Unregulated dealers from around the world will thrive, while operating without requirements for capital adequacy, risk management models, marketing ethics, dealing practices or even returning of customers funds.

The United States may cost itself millions of dollars in trade revenue.

Thousands of white collar jobs that require an advanced education and range from software developers to accountants to foreign exchange dealers may be eliminated, or move out of the United States.

From: ALLAN PERSON <personproduct@sbcglobal.net>
Sent: Friday, March 19, 2010 11:58 AM
To: secretary <secretary@CFTC.gov>
Subject: Fw: RIN 3038-AC61

THANK YOU!

ALLAN Person
American!

I am personally trading now overseas....why?

--- On **Fri, 3/19/10, ALLAN PERSON <personproduct@sbcglobal.net>** wrote:

From: ALLAN PERSON <personproduct@sbcglobal.net>
Subject: RIN 3038-AC61
To: secretary@cftc.gov
Date: Friday, March 19, 2010, 10:49 AM

I know you guys may feel some of your current changes regarding RIN 3038-AC61 may be to help our countries financial position but Please consider the following.

Should the 10 to 1 leverage rule proposed by the CFTC be adopted:

Funded accounts currently in the U.S. system can be expected to go offshore.

Forex fraud may worsen, not improve. Unregulated dealers from around the world will thrive, while operating without requirements for capital adequacy, risk management models, marketing ethics, dealing practices or even returning of customers funds.

The United States may cost itself millions of dollars in trade revenue.

Thousands of white collar jobs that require an advanced education and range from software developers to accountants to foreign exchange dealers may be eliminated, or move out of the United States.

From: Donnie Zahner <uraceulose@gmail.com>
Sent: Friday, March 19, 2010 12:17 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Please do not pass the proposed 10:1 regulation of retail forex trading. This will push us retail traders out of the market and a lot of traders out of the US.

Thank you for your time,

Donnie

RIN 3038-AC61

From: joemrstik@comcast.net
Sent: Friday, March 19, 2010 12:21 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Gentlemen: My wife and I have been investing the last 4 years in programs, seminars and travel to become educated and informed traders in the foreign currency markets.

We have spent over \$15000 for our education and countless numbers of hours listening to currency traders to learn strategys on how to read the charts for the technicals and watching for news to work with the fundamentals. In addition I have got up countless times at two AM in the early morning to trade the european markets.

Now that we are begging to feel a little more comfortable trading the "CFTC" is going to make it impossible for the "littlle man" to make any any money.

THANK YOU once again "BIG GOVERNMENT"

We are a couple that are on Social Security, that the government has taken away our "COLA" cost of living allowoance for the next two years 2010 and 2011.

When will all of this nonsense going stop?

Brokers of forenign currency exchange allow people to reduce the leverage with mini and macro accounts, so what is the need to keep people from using the excisting leverages?

Phease leave the things the way they are you cannot protect people from themselves, responsible persons will do what is right and the IDIOTS will drive headlong off a cliff no matter what you do to save them.

Respectfully Submitted
Joseph and Nancy Mrstik
Ft Myers, Florida

From: Tariel Tomaev <tomaevtrl@yahoo.com>
Sent: Friday, March 19, 2010 12:32 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

is not fair, leave it as it was

From: Tom Woods <summit.trader3@comcast.net>
Sent: Friday, March 19, 2010 12:38 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

March 19, 2010

Mr. David Stawick, Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

RE: RIN 3038-AC61 (Regulation of Retail Forex)

Dear Mr. Secretary,

The best way to learn is by making mistakes. Those who survive the Forex trading learning process have truly earned it. The market filters out those who have not. Individuals are responsible for their own decisions when trading. It is part of the challenge.

The path to financial freedom is elusive, especially for the average citizen. One of the few ways to financial freedom is risk management and proper use of leverage. It has taken me seven years of hard work, study and considerable expense to become a successful Forex trader and investor.

The leverage change from 200:1 to 100:1 in 2009 was difficult, annoying and frustrating forcing hundreds of thousands of traders like myself to come up with even more capital to maintain current Forex positions. A change to 10:1 would effectively take us out of profitable trades and shutdown the American Forex industry.

Not only would a reduction in leverage kill any hope of retirement and true financial freedom for traders and investors like myself, the profits and the taxes on those profits that contribute to the economy when unemployment is at depression-era levels would also disappear.

When the individual is empowered for success, those around him or her prosper, and by extension, our country. I know I speak for tens of thousands of successful traders and investors, those who are currently working hard to become successful and those who have yet to discover the exceptional, unique and life-changing benefits Forex trading offers for those who are willing to work for it.

Please do not change the Retail Forex leverage requirements from current levels.

Regards,

Tom Woods,
Forex Trader and Investor
Minneapolis, MN 55443

From: Calvin Wang <calvin@fxtrek.com>
Sent: Friday, March 19, 2010 12:58 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

RIN 3038-AC61

Dear Secretary,

As both a retail forex trader and a retail forex charting package developer, I strongly object the proposal for the new 10 to 1 leverage rule.

I understand the purpose for this proposed rule is to protect the small retail forex trader like me. However, this new rule will just do the opposite from my point of view:

1.The proposed rule will eliminate my small account. Most of small forex trader use the small real money account to improve their trading skills. Now I will have to put 10 times more money in the account without enough trading experience. I might lose 10 time more money than now.

2.With the new rule, most of small retail forex traders will disappear. They are the major customer of my company. We develop forex charting package for small traders. Our company will have to be shut down under the new rule.

In a short, this new rule does not protect me, it will kill me. I will lose both my job and small forex account in the US.

Calvin Wang

Vice President of Technology
www.fxtrek.com
(203)9610918

From: Bob Anderson <createwellth@yahoo.com>
Sent: Friday, March 19, 2010 1:08 PM
To: secretary <secretary@CFTC.gov>
Subject: Proposed FX changes

As a trader I I wish to state that making the leverage less then 100:1 is a marked hinder to me and my fellow traders. I understand the reason but have been around many newbe traders as well as myself in the beginning and all find that the 100:1 is a perfect way to trade and that we are able to properly handle the results as we trade only 2-5% of out balance.

Thank you for your STRONG consideration in this matter.

Sincerrely Bob Anderson

From: Donald Lita <donlita.stellalita@comcast.net>
Sent: Friday, March 19, 2010 1:48 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Hello,

I have an account with Gain/ Forex. Please keep the rules are now.

Thank you. Stella Lita.

From: Donald Lita <donlita.stellalita@comcast.net>
Sent: Friday, March 19, 2010 1:48 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Hi,
I have an account with Forex/ Gain less than \$ 5000.00. I'm trying to make more money. With new rules you are trying to impose on us will put me out of business. Please leave the rules the way they are right now.
Thank you very much. Donald Lita.

From: sdc33@comcast.net
Sent: Friday, March 19, 2010 1:52 PM
To: secretary <secretary@CFTC.gov>
Subject: regulation of retail forex

Hello,

This message is in regards to the subjectline. The I.D. # is RIN3038-AC61. Please do not add any additional regulations to the U.S. forex market. It's one of the only chances a small time trader has to make a little money, especially in this economy. I am new at forex trading and plan to continue to study and learn so that I can supplement my income. If you impose the regulations proposed, it will virtually put me out of operation before I even get started. Can't the Gov't stay out of anything?

Thank you!

Scott D. Cousins

Pittsburgh, PA

From: John Calhoun <jhndog02@yahoo.com>
Sent: Friday, March 19, 2010 2:15 PM
To: secretary <secretary@CFTC.gov>
Subject: Proposed forex changes

Sirs,

I think changing regulation with regard to leverage is a very bad idea. This is how I make my living and changing max leverage to only 10:1 would have a big impact on my ability to earn a decent wage. I do think 400:1 and like scenarios is ridiculous but 50:1 or 100:1 is reasonable and in step with other markets. By making this change you will simply drive brokers off shore where you would have no control over them. The other impact would be the small guys would no longer be able to compete effectively.

I would like to know the rationale for this move.
John Calhoun

Sent from my iPhone

From: Al Byrd <arb543210@yahoo.com>
Sent: Friday, March 19, 2010 2:35 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

To: CFTC,

I am strongly against the proposed reduction of Forex leverage. As a participant in the market with a live trading account, I support regulation that protects online traders from hackers and insolvency such as requiring mandatory trading account insurance along the lines of FDIC and SIPC. However, restricting leverage to protect traders from themselves is counterproductive. Please reconsider enacting this proposed damaging regulation.

Thank You,
AB

From: tradecents@verizon.net
Sent: Friday, March 19, 2010 2:46 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Ref: RIN 3038-AC61

Retail Forex traders should be allowed to select the risk leverage for their account. The National Futures Association has made it mandatory to display the risk warning to traders for trading the Forex market. Money management education is available to Forex traders with suggestions of setting stop losses at 1-3% of your account capital for each trade. The Forex educators advise is for trade risk capital be 10-20% for each trade. If traders do not use these guidelines and take on higher risk for their trades then that is their fault. All Forex traders should not be restricted to the new 10:1 leverage regulation just to protect the few who do not limit their risk. Forex traders should be allowed to select their level of risk leverage.

From: Anthony Amaefule <thirtytee@yahoo.com>
Sent: Friday, March 19, 2010 2:47 PM
To: secretary <secretary@CFTC.gov>
Subject: regulation of retail forex

this will kill the forex market,watch out other brokers are patiently waiting for this to take place so that the american forex market will collapse so that it can thrive in other countries,we must not forget that the fx business is not solely controlled in america,other participating countries will have a flow of traders moving to their countries for the trade
if they dont want to kill the fx market in america,this new rule must be killed and not allowed to see the light of the day.

From: fred krage <krage2@att.net>
Sent: Friday, March 19, 2010 3:19 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

I understand you are soliciting comment on whether retail forex ratios should be limited to 10:1.

Forex institutions do a very good job currently of educating the public to risks. A very good job. Along with position management and other tools to protect their investment. I have both gained and lost in forex. I am aware of the dangers. It is NOT because of being unaware. I invested what I did and I agreed to take the risk. It was my decision alone. That should NOT be taken away from me or anyone else. That is a fundamental exercise of my human rights and freedoms. I do not want nor need the government to regulate my risk. While I prefer a more reasonable ration of 25:1, a limit of 10:1 is just plain non-sensible. Please do NOT do it. fred krage

From: David Kozak <David_Kozak@jwhmail.com>
Sent: Friday, March 19, 2010 3:31 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex
Attach: Comment ltr CFTC FOREX proposal March 2010(2).pdf

Office of the Secretary - please find attached the comment letter of John W. Henry & Company, Inc. on the above-referenced rule proposals.

David Kozak
General Counsel

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March 19, 2010

David Stawick, Secretary
Commodity Futures Trading Commission
1155 21st Street, N. W.
Washington, D.C. 20581

Re: Regulation of Retail Forex

Dear Mr. Stawick:

These comments are addressed to the proposed rules regarding “Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries,” published in the Federal Register by the Commission on January 20, 2010 (the “Proposal”). John W. Henry & Company, Inc. (“JWH”) is registered as a commodity trading advisor (“CTA”) and commodity pool operator (“CPO”) under the Commodity Exchange Act, as amended, (the “Act”) and has conducted its CTA business since 1982. It therefore has a direct interest in the regulation of CTAs and CPOs.

JWH understands that the purpose of the Proposal is to “adopt a comprehensive regulatory scheme...to implement the CFTC Reauthorization Act of 2008...with respect to off-exchange transactions in foreign currency with members of the retail public...” as noted on page 3282 of the Proposal. However, we have concerns about the scope and application of the Proposal to CTAs and CPOs now registered as such and already subject to existing Commission and National Futures Association (“NFA”) rules. The Proposal does not acknowledge the application of the rules in the Proposal to current registrants in order to alert such firms of these proposed obligations, and does not recognize the potential for overlapping regulation in certain areas.

The Commission states that the statutory definitions of entities such as CTAs and CPOs do not anticipate persons engaged in off-exchange activities (footnote 45), and that “the statutory and regulatory definitions of the identifying terms do not necessarily comprehend involvement in retail forex trading” (page 3288). The Commission determined, however, that those categories of registrants would be employed in the proposed rules.

Proposed rules 5.1(d) and (e) create definitions of CTAs and CPOs for the proposed Part 5 rules. These forex CTA and CPO definitions are so broadly drawn that they include firms already registered as CTAs or CPOs, and which may have only a small portion of their business devoted to the forex transactions that are the concern of the proposed regulations. For example, a currently registered CPO may be operating a pool that is not an eligible contract participant (“ECP”) due to the fact that it just began to raise assets and has not yet reached a level of assets to attain ECP status, or a long-established pool that has had its assets reduced over time due to redemptions or trading losses and so no longer qualifies as an ECP. A currently registered CTA may have a small number of managed accounts that are not owned by eligible contract

participants but which trade forex as part of diversified trading programs. As a consequence, such firms would be subject to the Part 5 forex requirements for such pools or accounts, even though they do not apply to the great majority of their pool or account business. New and different obligations would thus be created from those that apply to the balance of their business. For example, proposed rule 5.19 would require notification to the Commission of material proceedings with respect to retail forex transactions.

We note that the Commission has taken into account a comparable situation -- futures commission merchants ("FCMs") that are primarily or substantially engaged in business that falls within the Commodity Exchange Act's definition of an FCM. The commission provided that such FCMs would be permitted to engage in retail forex transactions without also registering as retail foreign exchange dealers. Accordingly, a new definition of "primarily or substantially" is included in Section 5.1(g) of the Proposal, which is based in part on the source of revenues derived from the FCM's business, as defined in Section 1a (20) of the Act. In order to provide for parity in regulatory treatment, we propose that a similar "primarily or substantially" exemption be created for CTAs and CPOs that are not engaged generally in the retail forex business, based on a 50% test regarding assets under management devoted to trading forex. The test for exemption for CPOs would be based on having less than 50% of the assets in its pools devoted to forex trading; the test for exemption for CTAs would be based on having less than 50% of the assets in the accounts that it manages devoted to forex trading. That would focus the Part 5 rules on firms that are conducting essentially a forex trading business, but would exclude CPOs that only trade forex as a relatively small part of their pool business and CTAs that trade forex as one component of their trading programs. The exemption could be conditioned on a requirement that CPOs or CTAs seeking the exemption not market or hold out their services as designed to provide forex exposure to their clients.

Although the Proposal is intended to coordinate with existing NFA rules regarding retail forex (page 3282), that intention has not been carried through completely. For example, the "General Disclosure Required - Risk Disclosure Statements" in proposed rules 4.24 and 4.34 contain disclosure statements about the risks of trading forex. Those disclosure statements do not correspond to those currently required by NFA, in NFA's publication "Disclosure Documents: Guide for CPOs and CTAs - March 2010," available on the NFA website. The statements vary in several respects, as, for example, in stating whether the funds of a pool or account trading forex "may" (NFA) or "will" (Commission) receive the same protections as funds used to trade on exchanges. We urge the Commission and NFA to develop uniform language for risk disclosures regarding forex transactions.

Sincerely yours,

DMKozak

David M. Kozak
General Counsel

From: Rick and Sally Whittington <whitsend@swbell.net>
Sent: Friday, March 19, 2010 3:34 PM
To: secretary <secretary@CFTC.gov>
Subject: Restricting leverage to 10-1

I am writing to voice my opposition to changing the leverage to 10-1. I currently have an FXCM mini account with \$1400. I enjoy trading currencies and trying different strategies, making some money very much like a hobby. I currently have leverage of 100:1, and can trade at the 10K level with one or two trades at a time. Obviously, if the leverages change to 10:1, I will be unable to trade the most widely traded currency pairs such as the EUR/USD or the GBP/USD without a margin call!

Please don't take away these abilities from us! I am a retiree, and enjoy trading on the open American market. I do not wish to be forced to move to another out of country platform. Leave the currency leverages platform as is for us to continue to trade. Changes will cause us to either come up with more money or stop trading altogether. Neither alternative would be good for me at this time, and not good for continuing open market trading.

Thank you for your consideration.

Sally Whittington
281-333-5210

From: Alexis Hall <ahall@ruddylaw.com>
Sent: Friday, March 19, 2010 3:35 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex
Attach: FX Solutions, LLC Comment Letter.pdf

Alexis L. Hall*
Ruddy Law Office, PLLC
1225 15th Street NW
Washington, DC 20005
(202) 797-0762
(202) 318-0543 (fax)
www.ruddylaw.com

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Via Hand Delivery and E-mail (Secretary@cftc.gov)

Mr. David Stawick, Secretary
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Re: RIN-3038-AC61

Dear Mr. Stawick:

FX Solutions, LLC ("FX Solutions") appreciates the opportunity to comment on the rule proposed on January 20, 2010 by the Commodity Futures Trading Commission ("CFTC") "Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries."¹ As a National Futures Association ("NFA") registered FCM that has operated as a forex counterparty since 2002, we believe our perspective and tenure affords us an opportunity to provide constructive comment on the CFTC's proposed efforts to better regulate the forex industry.

FX Solutions strongly supports the CFTC's initiative to properly regulate the forex market. Accordingly we support a majority of the CFTC's proposal. FX Solutions fully supports the comments of the Foreign Exchange Dealers Coalition ("FXDC") in its forthcoming comment letter regarding the Regulation of Retail Forex. We do, however, oppose additional aspects of the proposed rules, which we set forth in detail below.

I. Proposed Rule 5.9 Regarding Leverage

Proposed Regulation 5.9 would require forex dealers to collect a security deposit equal to ten percent of the notional value of the retail forex transaction. The CFTC believes that this regulation will reduce retail forex customers' exposure to risk.

With respect to Proposed Regulation 5.9, we reiterate and fully agree with the points set forth by the FXDC. In addition to the items expressed in FXDC's letter, we have a few additional comments, which are outlined below.

The proposed rule regarding leverage is based on the mistaken belief that margin is for the protection of customers. In actuality, margin is for the protection of FCMs. In fact, the CFTC, has held that the concept of margin results from the "desire that futures commissions merchants have adequate

¹ *Federal Register*, Vol. 75, No. 12, pp. 3282-3330.

means to assure their own financial integrity and thereby contribute to the financial integrity of the entire marketplace.”² Though the CFTC itself recognizes the true purpose of margin, it now seeks to use it as a mechanism to reduce customer exposure to risk.

In attempt to reduce customer exposure to risk, the CFTC is ignoring its objective to protect customers from the fraudulent acts of industry professionals, and is, instead, attempting to protect customers from themselves. The proposed rule regarding leverage will, in essence, prohibit customers from making their own economic decisions. The ultimate decision regarding a customer’s risk tolerance should remain with the customer.

Since decisions regarding risk tolerance are best left to the customers, adequate customer protection can be derived from proper disclosure. Like commodity futures dealers, forex dealers are already required to provide customers with risk disclosure statements. The practice of providing risk disclosure statements to customers has been deemed an appropriate and adequate customer protection for decades in the futures trading industry. Since the CFTC has not established any basis for holding forex dealers to higher standards than futures dealers, the provision of risk disclosure statements should be sufficient in the forex industry as well. Accordingly, imposing a blanket ten percent margin requirement is unwarranted.

II. Guarantee Agreements

A. Requiring Guarantee Agreements Conflicts with the Intent of Congress

Prior to 1982, FCMs regularly used agents to solicit business. These agents sometimes made misrepresentations and engaged in other wrongful acts, which caused harm to customers. As these agents frequently had little capital, injured customers were often left without recourse. Consequently, the CFTC sought an amendment to the Commodity Exchange Act, pursuant to which FCMs would be held liable for the acts of agents.

Congress recognized that these agents were, for the most part, independent firms. As such, FCMs could not exercise adequate control over these entities. As a result, Congress dismissed the notion that FCMs should be held liable for the acts of agents. Instead, Congress created the IB registration category. Congress determined that registrants in the new IB category should be held accountable for their own conduct and established certain requirements to ensure such accountability.³

Requiring guarantee agreements between IBs and RFEDs or FCMs would make RFEDs and FCMs accountable for the actions of IBs. Thus, it appears that the CFTC is seeking to reargue the issue of accountability, but this time it is doing so in the forex arena. The CFTC has not established any reasoning behind applying more stringent standards to the forex industry. Thus, as the CFTC has failed in its endeavor to hold FCMs liable for the actions of IBs in the futures arena, it must also fail in the forex arena.

² *Baker v. Edward D. Jones & Co.*, Comm. Fut. L. Rep. (CCH) ¶21,167 at 24,772 (C.F.T.C. 1981).

³ *Federal Register*, Vol. 48, No. 150, p. 35248.

B. Guarantee Agreements are Alternatives to Meeting Net Capital Requirements

In furtherance of the goal to hold IBs accountable for their own conduct, Congress established a minimum net capital requirement with the idea that such a requirement would “guarantee the accountability and responsible conduct of introducing brokers.”⁴ IBs that maintained the required minimum net capital were classified as independent.

Congress held that in lieu of meeting the minimum net capital requirement, an IB could become guaranteed by entering into a guarantee agreement with an FCM.⁵ Congress noted that “the purpose of the guarantee agreement is to enable the introducing broker to meet the alternative adjusted net capital requirement”⁶ The legislative history surrounding guarantee agreements makes clear that guarantee agreements are to be used in lieu of, and not in conjunction with, meeting the minimum net capital requirement.

By providing IBs with the option to either meet the minimum net capital requirement or enter into a guarantee agreement, Congress created two separate and distinct categories of IBs. When assessing an FCM’s liability for an IB, a clear distinction between independent and guaranteed IBs has been made. With respect to independent IBs, liability will attach to an FCM where there has been a failure of a duty to supervise.⁷ An FCM will not be required to supervise the activities of an independent IB, unless it is has been shown that the independent IB was a de facto branch office of the FCM or an agent in the common law sense of the term.⁸ The CFTC now seeks to ignore the concept of the independent IB and require all IBs in the forex industry to enter into guarantee agreements. Requiring guarantee agreements will make FCMs and RFEDs liable for the actions of IBs regardless of the relationship between the two.

Additionally, when determining whether an FCM should be held liable for the actions of an IB, courts have emphasized the necessity of a case-by-case examination of the relationship between the FCM and the IB. By requiring guarantee agreements, forex dealers will always be held liable for the actions of the IBs. This outcome completely ignores the long history of analyzing such issues on a case-by-case basis.

III. The Closing Out of Offsetting Long and Short Positions

Pursuant to proposed Regulation 1.46, forex dealers engaging in off-exchange retail forex transactions would be required to close out offsetting long and short positions in an off-exchange retail forex customer’s account. Unlike existing Regulation 1.46, the requirement that RFEDs and FCMs close out offsetting positions would apply regardless of whether a customer instructs otherwise.

The CFTC believes that keeping open long and short positions in a retail forex customer’s account removes the opportunity for the customer to profit on the transaction, increases the fees paid by the customer, and invites abuse. Despite this contention, there is actually no economical distinction

⁴ *Id.*

⁵ *Federal Register*, Vol. 48, No. 150, p. 35264.

⁶ *Id.*

⁷ *In re Big Red Commodity Corp.*, Comm. Fut. L. Rep. (CCH) ¶22,263 (C.F.T.C. 1985); *Reed v. Sage Group, Inc.*, Comm. Fut. L. Rep. (CCH) ¶23,943 (C.F.T.C. 1987)

⁸ *In re Big Red Commodity Corp.*, Comm. Fut. L. Rep. (CCH) ¶22,263 (C.F.T.C. 1985); *Reed v. Sage Group, Inc.*, Comm. Fut. L. Rep. (CCH) ¶23,943 (C.F.T.C. 1987).

between commodity futures and forex transactions with respect to offsetting long and short positions. Consequently revising the rule in the context of forex makes little sense.

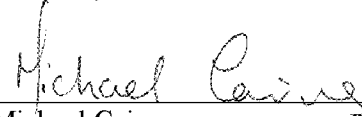
Absent a prohibition spread trades are common in the marketplace due to variable demand for two positions and the ability to capture a gain on a change in spread positions. Additionally, spread transactions are generally recognized as a more conservative method of investing than a one-side-only transaction. Thus, at minimum customers should be able to instruct an forex dealer not to close out offsetting long and short positions.

As previously expressed, FX Solutions strongly endorses the CFTC's initiative to properly regulate the forex industry. For the reasons stated above, we do, however, oppose proposed regulations 1.10, 1.46 and 5.9.

Thank you for your time and consideration of our points. Please do not hesitate to contact us if you wish to further discuss our views.

Sincerely,

FX Solutions, LLC

By: 
Michael Cairns
Chief Executive Officer

cc: Hon. Gary Gensler, Chairman
Hon. Michael Dunn, Commissioner
Hon. Jill E. Sommers, Commissioner
Hon. Bart Chilton, Commissioner
Hon. Scott D. O'Malia, Commissioner

Division of Clearing and Intermediary Oversight
Ananda Radhakrishnan, Director

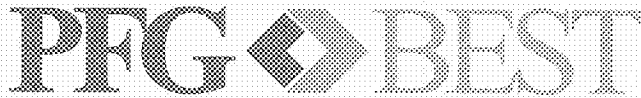
Office of the General Counsel
Dan Berkovitz, General Counsel

Mark E. Ruddy, Ruddy Law Office, PLLC
Susan Molinari, Bracewell & Giuliani, LLP

From: Alexis Hall <ahall@ruddylaw.com>
Sent: Friday, March 19, 2010 3:35 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex
Attach: PFGBEST Comment Letter.pdf

Alexis L. Hall*
Ruddy Law Office, PLLC
1225 15th Street NW
Washington, DC 20005
(202) 797-0762
(202) 318-0543 (fax)
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March 18, 2010

Via FedEx and E-mail (secretary@cftc.gov)

Mr. David Stawick, Secretary
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Re: RIN 3038-AC61

Dear Mr. Stawick:

These comments are submitted on behalf of Peregrine Financial Group, Inc. d/b/a PFGBEST. PFGBEST is one of the largest non-clearing U.S. Futures Commission Merchants (FCMs), incorporated in 1990. Our firm offers futures, forex and options as well as full service brokerage, trader education and direct online trading, with customers, affiliates and brokerage offices in more than 80 countries. Our Commodity Futures Trading Commission ("CFTC") ranking has grown from the 30th largest (in terms of customer assets) to number 11 (excluding banks) in the past three years. Currently, PFGBEST customer assets in some 60,000 accounts total approximately \$400 million, plus \$50 million accounted for in separate forex accounts. Allow me to also note that I serve on the FCM Advisory Committee of the National Futures Association ("NFA").

PFGBEST strongly endorses the investor protection regulatory initiatives of the CFTC. To this end, we support most components of the rule proposed on January 20, 2010 by the CFTC "Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries."¹ However we are opposed to (i) the requirement that Introducing Brokers (IBs) and Futures Commission Merchants ("FCMs") or Registered Forex Exchange Dealers ("RFEDs") enter into guarantee agreements; (ii) mandatory quarterly disclosures; (iii) net capital add-on; and (iv) the requirement that each RFED and FCM that engages in retail forex transactions collect a security deposit equal to ten percent (10%) of the notional value of the transaction.

I. Guarantee Agreement Requirement

The CFTC's proposed rule requires all IBs to enter into a guarantee agreement with either an RFED or an FCM. Although the CFTC believes that this requirement will aid in the prevention of fraudulent solicitation and sales practices in the forex industry, this proposed rule will not achieve the CFTC's intended objectives.

¹ *Federal Register* Vol. 75, No. 12, pp. 3282-3330.

We recognize that essential differences between trading futures contracts and trading forex contracts exist. Despite these differences, trading forex contracts involves no greater risk of fraudulent solicitation and sales practices than trading futures contracts. Thus, with respect to regulations designed to prevent fraudulent solicitation and sales practices, IBs in the forex industry should not be subjected to greater requirements than IBs in the futures trading industry. As such, we believe that the proposal to require guarantee agreements between IBs and FCMs or RFEDs (a) is inconsistent with the intent of Congress and (b) fails to accomplish the CFTC's stated goal.

A. The Guarantee Agreement Requirement is Inconsistent with Legislative History

As previously set forth, trading forex contracts involves no greater risk of fraudulent solicitation or sales practices than trading futures contracts. Thus, the legislative history surrounding the Futures Trading Act of 1982, which required the registration of IBs in the futures trading industry, provides valuable insight with respect to IBs in the forex industry.

Prior to the establishment of the IB registration category, small firms registered as "agents" of FCMs. The CFTC sought to hold FCMs liable for the acts of agents by requiring agents to register as associated persons of the FCMs. Congress recognized that agents, for the most part, were independent firms. As such, FCMs could not exercise the same control over agents as they could over their own employees. Thus, Congress rejected the notion that FCMs should be liable for the acts of these agents and instead established the IB registration category. Congress determined that registrants in this newly created registration category should be held accountable for their own conduct. Consequently, it established a minimum net capital requirement for IBs "to guarantee the accountability and responsible conduct of introducing brokers."² IBs that maintained such minimum net capital were classified as independent.

Congress held that in lieu of maintaining the required minimum net capital, an IB could become a guaranteed IB by entering into a guarantee agreement with an FCM. Pursuant to a guarantee agreement, an FCM is expressly responsible for the IB's obligations under the Commodity Exchange Act ("CEA"). The legislative history of the Futures Act of 1982 makes clear that Congress never intended guarantee agreements to be executed in conjunction with the maintenance of the required minimum net capital.

Through the proposed rules, the CFTC now seeks to hold FCMs and RFED's liable for the conduct of IBs regardless of whether the IB is independent or guaranteed. The CFTC has not established any basis for subjecting IBs in the forex industry to greater requirements than IBs in the futures industry. Without such basis, the CFTC cannot now obtain what Congress has already denied.

² *Federal Register* Vol. 48, No. 150, p. 35248.

B. Requirement of a Guarantee Agreement is Unnecessary to Further the CFTC's Goals

By requiring IBs and FCMs/RFEDs to enter into guarantee agreements, the CFTC believes that FCMs/RFEDs will be forced to more carefully vet the persons who solicit business on their behalf. The proposed rule, however, requires that all IBs in the forex industry register with the CFTC. Since the CFTC's paramount obligation is to assure, to the extent reasonably possible, the fitness of every registrant³, IBs will have already been carefully vetted during the registration process. Any additional vetting arising from the existence of a guarantee agreement will be superfluous.

Furthermore, guarantee agreements were originally designed to ensure that wrongdoing could not occur without accountability. The registration and minimum net capital requirements placed the once unaccountable IBs in a position to be held accountable for their own actions. Consequently, it is no longer necessary to hold another party liable for the actions of IBs.

As evinced by the history of guaranteed and independent IBs in the futures trading industry, it is clear that requiring guarantee agreements is not necessary to further the CFTC's goal to prevent fraudulent solicitation and sales practices in the forex trading industry. Like the futures trading industry, the registration requirement along with the minimum net capital requirement is sufficient to establish proper accountability for the actions of IBs.

II. Risk Disclosures

Proposed Regulation 5.5 requires RFEDs, FCMs and IBs to provide retail forex customers a risk disclosure statement which is similar to that currently required to be provided to futures customers under Regulation 1.55. However, in addition to the disclosures required under Regulation 1.55, forex dealers will also be required to disclose its total number on non-discretionary accounts and the percentage of such accounts that were profitable for each of the four most recent quarters.

In order for a regulation to avoid being deemed arbitrary and capricious under the Administrative Procedure Act, it must be shown that the CFTC has "examine[d] the relevant data and articulate[d] a satisfactory explanation for its action including a rational connection between the facts and the choice made."⁴ The CFTC presents no explanation or data demonstrating the need for disclosure of the percentage of profitable accounts maintained by forex dealers, when no such disclosure is necessary on the futures side. In fact, nothing indicates that forex transactions are any less profitable than futures transactions. Accordingly, requiring forex dealers to make such disclosures appears arbitrary and capricious.

³ *Federal Register* Vol. 48, No. 150, p. 35249.

⁴ *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 27 (1983).

Additionally, Section 15(b) of the CEA requires the CFTC to use the least anticompetitive means in achieving the objectives of the CEA. Imposing unwarranted greater requirements on forex dealers gives FCMs, which do not deal in forex, an unfair competitive advantage.

Alternatively, and congruous with our peers operating exclusively in the commodity futures industry, we propose that FCMs and RFEDs should be left with the discretion to determine on a case-by-case basis which customers require some additional risk disclosure, and supplement disclosures as is necessary in particular instances.⁵

III. Net Capital Requirement

We appreciate that customers in the forex market rely on the dealer's financial stability and creditworthiness; and therefore support the Commission's initiative for higher minimum net capital requirements that, at some level, increases with customer liabilities. However, in our view, and without offering up any concrete proposals, any regulatory framework needs to address the true economic requirements of trade practices, including the practice of straight-through-processing.⁶ It will make for bad public policy to implement unnecessarily stringent capital requirements and instead any rule must strike a balance to ensure net capital standards are equitable and not unduly burdensome. If not, we fear that the mantra offered up by many of our peers may hold true – this business will move offshore without regard for any sort of regulation, and opening up a greater possibility of fraud.

IV. Security Deposits for Retail Forex Transactions

Proposed Regulation 5.9 would require each RFED and each FCM that engages in retail forex transactions to collect a security deposit equal to ten percent (10%) of the notional value of the transaction. In proposing this rule, the CFTC is attempting to reduce forex customers' exposure to risk. For the reasons set forth below, we believe that the proposed rule regarding leverage will not meet all of the CFTC's stated purposes.

A. Purpose of Margin

Proposed Regulation 5.9 is based on a misunderstanding surrounding the role of margin in the commodities industry. Despite the CFTC's current proposal to use margin as a means to protect customers from risk, it has long been held that margin has a special status under the commodities laws because it is a protection for the FCM and not the customer. In *Levi-Zeligman*

⁵ NFA Compliance Rule 2-30; NFA Interpretive Notice 9013.

⁶ The NFA in its current capital requirements recognizes the straight-through-processing that a lesser capital requirement should be imposed on parties offering a trade via straight through processing. See NFA Financial Requirements Section 11 (a).

*v. Merrill Lynch*⁷, the CFTC stated that “[t]he purpose and law surrounding margin is clear . . . Futures Commission Merchants are closely protected by margins and liquidation because without that protection, they would be exposed to overwhelming risk.” Thus, the CFTC, itself, recognizes that margin is a mechanism designed to protect the FCM and not the customer. The courts have consistently held that margin rules are not customer protection rules.⁸

Additionally, conditions in the forex arena can change very rapidly and if the authority to set margin is taken away from FCMs, they will be deprived of their ability to protect themselves from market volatility. In fact, the CFTC has stated

[p]articularly in those market situations where a prompt response is required, a futures commission merchant is free to exercise its power to demand the deposit of additional funds by its customer and to liquidate an account without hesitation if the demand is not met. The exercise of these powers is available as a matter of business judgment, a judgment not curtailed by fear of subsequent claims of constructive fraud which have no basis.⁹

Thus, it is clear that an FCM should be able to set its own margin requirements as it deems fit and not be required to impose arbitrary and obstructive margin requirements on its traders.

B. Historical Customer Protection Mechanisms

By asserting that there is an increased need for customer protection from risk, the CFTC is removing the long held view that traders are responsible for determining their own risk tolerance. Forex FCMs are required to provide forex customers with the same risk disclosure statements as other commodity or futures FCMs provide to their traders and should be held to the same standard of self-determination for risk tolerance. Since the CFTC has not established any foundation for applying different standards in the forex industry, the CFTC should treat forex customers the same as other commodity traders. By imposing a blanket margin requirement of 10%, the CFTC is removing the ability of customers to set their own leverage limit, and hence establish their own risk exposure. In the commodities world, risk tolerance is determined on a case by case, individual basis by the customer, not by establishing standards that reduce universal risk; to do so reminds one of the suitability standards found in the securities world, which have been categorically refused in the commodities world and, at times, by the CFTC itself.

In 1978 the CFTC first announced that it would not adopt a suitability rule because to do so would merely codify principles already implicit in the antifraud provisions of the CEA and CFTC Rules.¹⁰ Instead, it adopted a requirement that risk disclosure statements be given to

⁷ *Levi-Zilgman v. Merrill Lynch Futures, Inc.*, Comm. Fut. L. Rep. (CCH) ¶25,767 (C.F.T.C. 1993).

⁸ *ADM Investor Services, Inc. v. Collins*, 515 F.3d 753 (7th Cir. 2008).

⁹ *Baker v. Edward D. Jones & Co.*, Comm. Fut. L. Rep. (CCH) ¶21,167 at 24,772 (C.F.T.C. 1981).

¹⁰ Proposed Standards of Conduct for Commodity Trading Professionals for the Protection of Customers, [1977-1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,474 at 21,928 (Sept. 6, 1977).

customers so as to warn them of the risk of commodity trading and the need to determine for themselves if they are suitable for the contemplated transaction (i.e. whether or not they can "afford to lose" the funds invested). The practice of providing risk disclosure statements has been upheld by the CFTC since 1978 and is effectively in use across the commodities and futures industry as the appropriate treatment of the issue. In addition, due to the nature of commodities and futures trading and the unique elements of each relationship between a trader and the traded commodity or his trading style, the CFTC has been unable to formulate meaningful standards of a universal suitability application. This means that in the world of commodities, it is not possible to establish a standard whereby all traders are uniformly judged according to whether or not they can afford to lose their investment.

C. Proposed Regulation 5.9 Will Likely Increase Risk to Forex Customers

Upon adoption of proposed Regulation 5.9, retail forex dealers registered in the United States will no longer be able to compete with foreign based retail forex dealers, who routinely offer forex trading to customers at leverage levels of 200:1 or greater. Consequently, U.S. registered dealers will be forced out of the forex business, and U.S. customers will be forced deal with foreign based, unregulated retail forex dealers. Thus, instead of reducing U.S. customers' exposure to risk, the proposed requirement increases it.

The NFA has recently adopted leverage restrictions of 100:1 on major currencies and 25:1 on non-major currencies. We believe that these restrictions will enable U.S. registered retail forex dealers to effectively compete with foreign based forex dealers.

The most significant threat to a forex customer is not risk; it is the element of fraud that has been allowed to fester due to inadequate regulatory oversight of industry professionals. The CFTC very effectively addresses this element of the industry in the other proposed rules found in RIN 3038-AC61. By requiring intermediaries to register, increasing net capital requirements, and properly defining forex transactions so that nefarious individuals are prohibited from operating outside the regulatory structure, the CFTC is effectively working to protect investors from fraud. Altering margin requirements serves no purpose in the fight against fraud and may in fact promote fraud if it serves to drive business away from U.S. regulatory jurisdiction and to other regulatory or non-regulatory environments that do not share the same vigilance towards customer protection.

As previously expressed, PFGBEST strongly endorses the regulatory initiatives of the CFTC that focus on investor protection. For the reasons stated above, we do, however, oppose the proposed requirement that that IBs and FCMs and RFEDs enter into guarantee agreements and the proposed Regulations 1.10, 5.5, 5.7, and 5.9.

Mr. David Stawick
March 18, 2010
Page 7

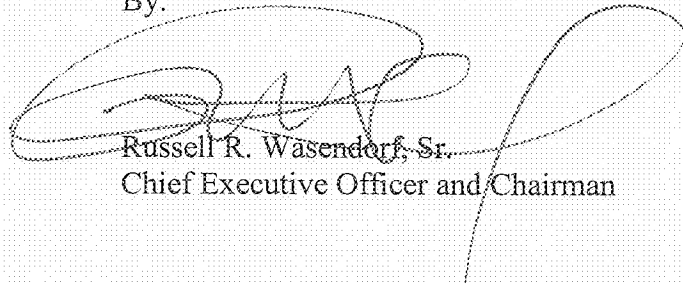
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Thank you for your time and consideration of our points. Please do not hesitate to contact us if you wish to further discuss our views.

Sincerely,

PFGBEST

By:

A large, stylized handwritten signature in dark ink, appearing to read 'Wasendorf', is written over the printed name and title.

Russell R. Wasendorf, Sr.
Chief Executive Officer and Chairman

cc: Attached List

cc: Hon. Gary Gensler, Chairman
Hon. Michael Dunn, Commissioner
Hon. Jill E. Sommers, Commissioner
Hon. Bart Chilton, Commissioner
Hon. Scott D. O'Malia, Commissioner

Division of Clearing and Intermediary Oversight
Ananda Radhakrishnan, Director

Office of the General Counsel
Dan Berkovitz, General Counsel

Mark E. Ruddy, Ruddy Law Office, PLLC

From: Michael Szajer <szajer362@hotmail.com>
Sent: Friday, March 19, 2010 3:55 PM
To: secretary <secretary@CFTC.gov>
Subject: Comments on Proposed Regulations Regarding Retail Forex Transactions

To Whom It May Concern,

With regard to RIN 3038-AC61

As a trader in the retain forex market, I concur that regulation is necessary with regard to certain brokerage practices and is well overdue. However I have to register my strong disagreement with the leverage limit percentage being downgraded to 10 to 1 maximum leverage.

In my opinion this limit is far too low. A sensible and workable leverage maximum would be 50 to 1, and I respectfully ask you to consider this alternative.

Sincerely,
Michael Szajer

From: jsmccain@comcast.net
Sent: Friday, March 19, 2010 3:59 PM
To: secretary <secretary@CFTC.gov>; secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

To Whom It May Concern:

I am retail trader in the Forex market and I am strongly opposed to the new 10:1 leverage proposal RIN 3038-AC61. **Please do not implement these leverage regulations outlined in this proposed rule which would ruin the retail forex market. Thanks**

Scott

From: LWMLK7321@aol.com
Sent: Friday, March 19, 2010 4:06 PM
To: secretary <secretary@CFTC.gov>
Subject: "Regulation of Retail Forex"

I am writing to express my strong opposition to the proposed change requiring 10:1 leverage limitations. I feel that requiring a larger investment per lot to trade currencies would be detrimental to traders, brokers and even the country as a whole.

Forex traders have constant reminders in the form of disclaimers telling them that forex trading is risky. There is no need for a regulation to protect forex traders from themselves. We see these disclaimers daily on our brokers' web sites, at any training seminars or educational web sites we may visit, and in every book published on the subject. The small amount per lot we are able to invest is protection enough.

I am convinced that those who are truly interested in trading the forex will find a way to do it in a manner that is acceptable to them. If a larger investment per trade is required in the United States, traders will simply invest their money in other countries with foreign brokers. Thus, our U.S. Dollars would be leaving the country at a time when our economy can afford it the least. Is using a foreign broker a risky practice? Of course it is. But if these people were risk-averse they wouldn't be forex traders in the first place.

I believe that this change would drive many brokers out of the forex business altogether, thus eliminating valuable jobs, again taking a toll on our already-strapped economy. We need to be encouraging job creation, not job elimination. If anything, I feel forex trading should require a smaller investment per lot, not a larger one. The more people who are able to participate, the better. Give the small investor a chance to earn a living trading the forex. For many otherwise unemployed people, this industry can be a godsend.

I happen to be disabled. Trading is the one thing I can do without leaving the house to make a living. I don't have to pay for lunches out, buy an expensive work wardrobe or spend money for gas, to participate in trading. If I don't feel well enough to get dressed, it doesn't matter. I can still be successful and self-supporting. Can you imagine how uplifting that is for me? Don't you think that a person who has lost his or her job and has been unable to find a new one could use just such a boost? But, if those people have to come up with \$1000 per trade, the opportunity is probably closed to them. Is it risky for them to trade? Of course, but they will be warned about that repeatedly before they start trading and continuously during their trading careers. Let them make their own choices whether or not to take the chance. Taking risk is part of the American psyche, a part of the culture. Give all of us the opportunity to succeed.

Take a cue from the stock market. What is the difference between risking money on a stock that can plummet in value and a currency that can lose value? Well, the company can go out of business or have a disaster (like Enron, the travel industry after 9/11 or the current Toyota fiasco). But, in all likelihood, a country will probably not go bankrupt, rendering its currency completely worthless. The broker could go out of business and keep whatever money you have left in your account, however (remember Refco?). Requiring larger deposits on the part of customers will not protect against that — it will only give customers greater risk by requiring them to have larger amounts of money on deposit with the broker.

Here's a way to protect traders: Why not require brokers to change the customer agreements to delete the wording that makes the broker the owner of the customer's money while it is on deposit. Don't allow the broker free rein, able to use all of the funds on deposit for reasons other than trading. In the case of Refco, the president made loans to himself using funds on deposit that he had no intention of paying back. When customers deposited money with that firm, they certainly did not realize that they were offering the company president an unlimited supply of ready cash. Require the brokers to use customer deposits for nothing but trading. That would have protected me when I went with the firm I thought to be the largest and safest forex broker.

I believe that your motive is an honorable one (to protect individual traders), but I believe the consequences of changing the leverage requirement to 10:1 will do just the opposite, and cost our nation dearly with respect to lost dollars and jobs. Let each trader be responsible for his or her own trading decisions. It's your job to regulate the brokers, not the traders. Let each individual take responsibility for his or her own money.

I urge you to abandon the idea of 10:1 leverage. Thanks you for considering my point of view.

Mary L. Kimble
7321 Canterbury Avenue
Saint Louis, Missouri 63143-3436
USA
(314) 781-7532
LWMLMK7321@aol.com

From: Ray <ray.w.parker@ntlworld.com>
Sent: Friday, March 19, 2010 4:06 PM
To: secretary <secretary@CFTC.gov>
Cc: admin@fxsalt.com
Subject: regulation of retail forex

Dear Sir

Here are my comments on the Regulation of Retail Forex proposal by the CFTC: reference: RIN 3038-AC61.

Leverage in retail Forex customer accounts would be subject to a 10-to-1 limitation.

This proposal is completely unnecessary and is grossly unfair to small amateur traders like me.

We can't afford an account at least ten times bigger and will be forced to stop trading which will harm us and the welfare of our families.

Modern technology has made it possible for the little guy to benefit from Forex trading just like the Wall Street fat cats who are causing trouble with their obscene bonuses.

Now the CFTC is proposing to pull the rug out from under our feet by turning back the clock.

It's nonsense to say we need protecting. We're sensible people and know the risks. We trade prudently and are making steady profits.

Maybe the Federal government doesn't like that but we're just ordinary citizens trying to survive in a global financial crisis caused by greedy bankers.

What's more, this proposal is likely to make the crisis worse.

It will have the unintended consequence of reducing trading, by both amateurs and professionals, which will reduce liquidity and cause spreads to rise.

This will cause a further decrease in activity and could lead to a vicious and uncontrollable downward spiral – destabilizing the vitally important world currency market.

I urge you to reconsider and scrap this unfair, unnecessary and potentially damaging proposal.

Yours sincerely

Ray Parker

From: 滕川 <huntianwang@gmail.com>
Sent: Friday, March 19, 2010 4:23 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

To whom it may concern:

I am a forex trader in China and I have been using US brokers for several years and very satisfied. Compared with other countries brokers, the aspects of US counterparties appealing me, which I think apply to other countries clients also, are:

- 1, Strong and respectable regulation bodies,
- 2, Sound and sophisticated financial infrastructure,
- 3, US as a country have a tradition for the protection of international investors,
- 4, US based forex firms are generally more financially solid and well-managed.

Regarding your recently regulation proposal, I fully agree to enhance industry oversight, but I don't like put any restrictions on leverage. Leverage is a very important tool for us seeking financial freedom as your American, and lowering leverage dramatically like this will not only hurt our clients feeling but also drive us to other countries (ie. unregulated) brokers despite above advantage. This is not a win-win situation, it's a lose-lose situation that you probably wouldn't expected.

Please reconsider your proposal.

Regards,

Chuan Teng

From: R <rcgz@tx.rr.com>
Sent: Friday, March 19, 2010 4:34 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Sirs:

I have been a successful forex spot trader for many years and I am vehemently opposed to the CFTC proposal to restrict leverage to 10:1. I emphatically urge the immediate abandonment of this idea.

Very truly yours,

Richard J. Zippilli
Plano, Texas

From: Victor Facun <vfacun@intevac.com>
Sent: Friday, March 19, 2010 4:36 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Gentlemen,

Regulating the Fx trade to 10:1 ratio is bad to the economy, to US. You'll be killing this industry in US and everything

that revolves around it. I am sure, companies and people that will be affected will go to foreign brokers outside US that are not regulated by CFTC.

Victor Facun

From: rattial@comcast.net
Sent: Friday, March 19, 2010 4:39 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

To whom it may concern:

Regard about "RIN 3038-AC61", please do not change the leverage limit from 100:1 to 10:1, otherwise I and other little money funded investors have no choice but to switch our accounts to overseas. It's inconvenient and maybe complicated at tax time for us.

Thank you for listening and have a nice day.

Sincerely,

Rattial Wang-Set
Nashua, NH

From: dmlal@mail.com
Sent: Friday, March 19, 2010 4:43 PM
To: secretary <secretary@CFTC.gov>
Subject: 'Regulation of Retail Forex'

I oppose your proposal to allow me to trade at a 10:1 leverage ratio. I wish to trade how I want with MY money. This is what a democratic right is. Freedom of choice. Your proposal does not provide me that right
RIN 3038-AC61

From: avik samanta <aviksamanta012345@gmail.com>
Sent: Friday, March 19, 2010 4:54 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

I am strongly opposed to the proposed 10:1 leverage scheme.

I would request you to try and answer the following questions before taking a decision:

1) Will reducing the leverage decrease or increase the amount of risk that a retail trader is exposed to?
A retail trader who had to pay \$25 as margin for 1 micro lot of EUR/USD has to now risk \$250.
Further, if he decides to move his funds outside USA to a potentially unregulated brokerage firm, he is now exposed to a threat of losing his funds to unregulated brokerage practices.

2) Don't you think that a retail trader should be mature enough to do proper money management while taking trades?
If your answer to this question is negative, then, what makes you think that reduced leverage (potentially higher risk money) coupled with poor money management will reduce a retail trader's risk?

3) Aren't you forcing the retail traders with sound money management, but little money to spare for trading (taking aside the part of income for his living) to shut down his trading activities?

Instead of concentrating on the leverage, which is already low enough, shouldn't you concentrate on things like making clients' deposits safer. Another thing that you should concentrate on is, if a foreign investor puts his money with a broker registered with CFTC, then, how can he do most of the proceedings with CFTC online so that he gets a fair justice in case an unfair practice is adopted by the broker.

Thanks & Regards,
Avik Samanta

From: avik samanta <aviksamanta012345@gmail.com>
Sent: Friday, March 19, 2010 4:59 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

RIN 3038-AC61

I am strongly opposed to the proposed 10:1 leverage scheme.

I would request you to try and answer the following questions before taking a decision:

1) Will reducing the leverage decrease or increase the amount of risk that a retail trader is exposed to?
A retail trader who had to pay \$25 as margin for 1 micro lot of EUR/USD has to now risk \$250.
Further, if he decides to move his funds outside USA to a potentially unregulated brokerage firm, he is now exposed to a threat of losing his funds to unregulated brokerage practices.

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If your answer to this question is negative, then, what makes you think that reduced leverage (potentially higher risk money) coupled with poor money management will reduce a retail trader's risk?

3) Aren't you forcing the retail traders with sound money management, but little money to spare for trading (taking aside the part of income for his living) to shut down his trading activities?

Instead of concentrating on the leverage, which is already low enough, shouldn't you concentrate on things like making clients' deposits safer. Another thing that you should concentrate on is, if a foreign investor puts his money with a broker registered with CFTC, then, how can he do most of the proceedings with CFTC online so that he gets a fair justice in case an unfair practice is adopted by the broker.

Thanks & Regards,
Avik Samanta

From: Dave Lemont <dave@lemontconsulting.com>
Sent: Friday, March 19, 2010 4:54 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex" and the ID number RIN 3038-AC61
Attach: CurrenseeCFTC20100319.pdf

Dear Mr. Stawick,
Currensee is pleased to present our comment letter to the CFTC for review. I have attached our formal comments in PDF format.
Thank you for your careful consideration.

Dave Lemont
CEO Currensee
(781)985-1540
www.currensee.com
dave@currensee.com
Trade Together



March 19, 2010

Via E-Mail

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Re: RIN 3038-AC61

Dear Mr. Stawick:

Currensee Inc. ("*Currensee*") welcomes the opportunity to submit this comment letter to the Commodity Futures Trading Commission ("*CFTC*" or "*Commission*") on its proposed rules for "Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries," 75 FR 3282 (Jan. 20, 2010). Currensee is also a signatory to a comment letter dated March 11, 2010 submitted jointly with several other registered introducing brokers, each of which has referral arrangements with multiple forex dealers ("*Joint Letter*"). Our comments in this letter address additional issues of concern to Currensee.

I. BACKGROUND ON CURRENSEE

Currensee has been registered with the CFTC as an introducing broker ("*IB*") and a member of the National Futures Association ("*NFA*") since May 21, 2009. Currensee provides various information services and products to forex traders who are members of the Currensee trader network. The Currensee trader network is comprised primarily of individuals who are already actively engaged in trading forex before joining the network, many of whom consider themselves to be experienced traders. Initially, Currensee has focused its introducing broker business on referring traders to forex dealers through website links to the dealers, without our additional involvement in the account opening process at the dealer. This is still a major part of our IB business.

Increasingly, Currensee also works closely with traders to evaluate potential forex dealers with which to open a forex trading account. We believe we provide an important service to traders in matching them to the right forex dealer. As we grow this part of our IB business, we anticipate taking on a greater interactive role between the traders and the forex dealers to assist traders in resolving issues or disputes that may arise with their forex dealers.

In the future, Currensee plans to offer automated portfolio trading services to forex traders, which will allow a trader to build his own customized program to generate and automatically send orders for his account to his forex dealer. The trader will select one or more programs made available through Currensee, and will decide how to tailor each program he selects by setting his own trading parameters, including currency pairs, permissible deviation in executable price from the last trade price, time of day, etc., and the level of funding to allocate to his trading.

Mr. David Stawick

March 19, 2010

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Currensee will run the software programs on our servers for the traders, but the trader will control all decisions on customizing the automated program to his specifications.

II. THE JOINT LETTER

Currensee endorses all of the recommendations in the Joint Letter. Of particular concern, we urge the Commission to eliminate the guaranteed IB requirement. As explained more fully in the Joint Letter, that requirement is anathema to our business and will harm customers, in that it will essentially force us to refer customers to a single forex dealer, denying them the valuable service we perform in helping them make informed investment decisions on where to trade. A forex IB should have the same choice as a futures IB to operate as an independent IB, subject to the same capital requirement, or as a guaranteed IB. There is no reason for applying a different regulatory approach to forex IBs than to futures IBs, especially when the existing framework has proven to work well in protecting customers. More generally, we believe, the Commission should apply consistent standards to forex registrants and futures registrants, to the extent possible.

For reasons more fully explained in the Joint Letter, we are also concerned that the CFTC's rulemaking proposal is predicated upon an inaccurate and incomplete understanding of the retail forex markets, including who trades in those markets, their trading practices, and their levels of trading skill and experience. For example, the CFTC has stated that "relatively few ... trade profitably,"¹ based on its apparent views that virtually all forex traders are unsophisticated and unsuitable to be trading forex. The Commission's characterizations of retail forex traders are inaccurate. Based on our analysis of the trading performance of the members of Currensee's trader network, approximately 30% of our members trade forex profitably. To assure that its rulemaking is based on a sound factual foundation, we recommend that the Commission undertake a study or direct NFA to undertake a study to develop an accurate empirically-based understanding of the retail forex markets.

III. SPECIFIC COMMENTS

A. Automated Trading Issue

Currensee developed its automated portfolio trading services because a growing number of forex traders use automated trading programs. These may be proprietary systems that the traders have developed, or third party systems that they license. In either case, the trader controls the decisions on when to run the program, what trading parameters to enter and the funding level to allocate. The program automatically generates orders based on the trader's tailoring of the

¹ 35 FR 3289.

Mr. David Stawick

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program, including calculation of the size of the orders to place. As a service to their customers, some IBs and forex dealers, as well as technology providers, will run the software on their servers for the traders.

We have a concern regarding how proposed Regulation 5.17 would apply when forex customers use automated trading programs. The regulation would prohibit a CFTC-regulated forex dealer, a forex IB or an associated person of the foregoing from "directly or indirectly" effecting transactions for a retail customer without the specific authorization of the customer or the customer's designated account controller. The regulation states that "specifically authorized" means the customer or account controller "specifies: (a) The precise retail forex transaction to be effected; (b) The exact amount of the foreign currency to be purchased or sold; and (c) In the case of an option, the identify of the foreign currency or contract that underlies the option."

We are concerned that the standards for what constitutes specific authorization could be read to require a forex customer to enter each order on an individual, manual basis. That interpretation would be disruptive to the common use of automated trading programs. We ask the Commission to revise proposed Regulation 5.17 to clarify that orders transmitted by a customer using an automated trading program that he controls are deemed to be specifically authorized by the customer.

We also request confirmation that when a customer uses another party to run his automated trading software for him, the party running the software is simply performing a technology service, and is not exercising trading discretion over the trader's account simply because its servers run the software that generates the customer's automated orders. This will clarify that the third party is not acting as a forex commodity trading advisor.

B. Proposed Revisions to Regulation 1.40

Under proposed revisions to CFTC Regulation 1.40, CFTC-regulated forex dealers and forex IBs will be required to provide the CFTC upon request with "a true copy of any letter, circular, telegram, or report published or given general circulation" by the firm which concerns "market information or conditions that affect or tend to affect the price of any commodity or exchange rate, and the true source or authority for the information contained therein." We ask the CFTC to clarify that the proposed requirements do not apply to content posted by third parties on a trader network. We understand the need to monitor such content. We believe that NFA's interpretative notice on NFA Compliance Rule 2-29, Communications with the Public and Promotional Material, appropriately addresses an NFA member's obligations in that regard, under the provisions that NFA recently added to that notice on "Use of On-Line Social Networking Groups to Communicate with the Public."

C. Proposed Definition of "Retail Forex Transaction"



Mr. David Stawick

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The definition of the term "retail forex transaction" in proposed Regulation 3.1(m) covers "accounts." We do not understand the reason for this, and find that it makes the definition confusing and nonsensical. We ask that the Commission delete the reference to accounts in the definition.

D. Proposed Regulation 3.15

Proposed Regulation 3.15 would make it unlawful for anyone registered under the Part 5 Regulations to "represent or imply in any manner whatsoever that such person has been sponsored, recommended or approved, or that its abilities or qualifications have been reviewed or evaluated, by the Commission, the Federal government or any agency thereof." We agree that no CFTC registrant should make any statement implying that its services have been endorsed by the CFTC or any other federal agency. However, we are concerned that the proposed regulation is overbroad and could be construed to preclude us from making the factually correct and straightforward statements that the firm and its associated persons are registered with the CFTC, and the registration (and NFA membership) process included fitness screening of the firm, its associated persons and individuals who are principals of the firm. We ask the Commission to confirm that neutral factual statements such as the foregoing are permissible, as we understand such statements to be on the futures side.

Currensee appreciates the Commission's consideration of our comments, both in this letter and in the Joint Letter. We would be happy to discuss any questions that the CFTC may have on any of our comments.

Respectfully submitted,

David Lemant, CEO

Currensee, Inc.

From: Lynn Bennett <lynn_nancy@msn.com>
Sent: Tuesday, March 16, 2010 11:49 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of the Retail Forex Market

To Whom it may concern:

I would like to add my objections to the list of all who have voiced their views on the Regulation of the Forex Market. All this regulation will do is force investors to move their accounts off shore. I strongly object to any action that attempts to limit me in my legal efforts to provide income for my family. In a time when everyone is struggling to make a living we certainly don't need anything that will interfere with free enterprise and the entrepreneurial spirit.

Lynn Bennett

From: bud glawe <budglawe@yahoo.com>
Sent: Friday, March 19, 2010 6:09 PM
To: secretary <secretary@CFTC.gov>
Subject: regulation of retail forex

Id no. rin3038-ac61, acct. will go offshore, more forex fraud, unregulated dealers from around the world will thrive, US will cost itself millions of dollars in trade revenue, i don't think its a good idea.

keep smiling

bud @ Shirley

From: Gabrielle Bodnar <gbodnar@rochester.rr.com>
Sent: Friday, March 19, 2010 6:17 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Dear Mr. Secretary;

The proposed regulations, per RIN 3038-AC61, to limit leverage in retail forex accounts is a misplaced attempt to limit risk. Those who are responsible already know how to limit risk with stop loss orders and utilize such orders routinely. Additionally, by funding a forex account with only the cash one should allot to that class of risk investment, the risk is automatically limited. All you will do with this regulation is make trading in the United States impossibly difficult so that we will be forced to take our accounts to other countries, thereby putting more Americans out of jobs.

Consider this: people who trade with a true gambling mentality (without stops, and without taking profits at appropriate levels) also are the ones who probably continue to dump more money into their accounts to cover their losses. Okay, so you say this is a problem. It sounds no different to me than a person who goes to Las Vegas; but you are not shutting down the casinos, are you? Yet, there is no argument that what goes on in Vegas is 100% gambling and has not one tiny bit of investing involved in it. Perhaps you should concentrate on the true gambling problem and leave the people who have allotted a small amount of their investment money to a diversification of their portfolio alone and allow it to remain invested in America and American workers.

Sincerely,

Gabrielle T. Bodnar, MD

From: ron glawe <jrglawe@yahoo.com>
Sent: Friday, March 19, 2010 6:26 PM
To: secretary <secretary@CFTC.gov>
Subject: regulation of retail

I don't think the leverage should be changed it will make alot of traders go overseas with there accounts. Unregulated dealers from around the world will thrive on it. US will cost itself millions of dollars in trade revenue, not to mention jobs lost. Please think about it. ID. Rin 3038-AC61, RG.

From: Richard Karp <meadowlark@optonline.net>
Sent: Friday, March 19, 2010 6:27 PM
To: secretary <secretary@CFTC.gov>
Subject: Proposed change in leverage

As an independent trader I am totally against your proposed change in leverage. First of all you can never lose more than what is in your account as

the broker will close you out if your getting near your account size. Secondly as a trader I always uses stops, always. And last but not least if you do institute the

proposed change I will move my account to the UK. So what's the point. By the way, forex (the spot market) moves in 100th of cent moves. Without the leverage what the point.

I hate to put it this way but it's a dumb idea.

Sincerely,

Richard Karp

From: Henry Silva <hgius@hotmail.com>
Sent: Friday, March 19, 2010 6:27 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

RIN 3038-AC61

Prezados senhores, boa noite!

Gostaria de expressar aqui minha posição contrária em relação à intenção da CFTC de implantar tal regulamento. É contrária à liberdade individual de correr riscos com seu próprio capital. O ideal americano desfaz-se com tal disposição...

Att,
Henry G M Silva
Investidor Individual
América do Sul - Brasil

RIN 3038-AC61

Dear Sir, good night!

I would like to express my contrary position regarding the intent of the CFTC to establish such a regulation. It is contrary to individual freedom to take risks with their own capital. The American ideal shattered by this provision ...

Att,
Henry G M Silva
Individual Investor
South America - Brazil

Acesse todas as suas contas de e-mail num único login dentro do Hotmail. [Veja como.](#)

From: Tihon <nvnt@yahoo.com>
Sent: Friday, March 19, 2010 6:30 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Dear Sirs,

I would like to hereby express my deep concern with the intentions of CFTC to limit the maximal leverage for retail Forex brokers from the current 1:100 to 1:10. In my opinion, the following scenario is likely in that event:

1. The maximal leverage requirement will be increased for all US-regulated brokers from the current 1:100 to 1:10. This will clearly demonstrate a complete dismissal of a regular Forex trader's interests if they happen to be conflicting with the interests of the "big wallets" - banks and non-retail futures brokers. We do not wish to be "protected" till we go broke just to make them even richer.
2. US-based retail Forex brokers will sure be unwilling to lose their business completely. They've already got burned with the recent self-imposed regulations of the NFA (which is not even a government agency, although many traders are made to believe it is) and now clearly realize the 1:10 leverage will be the last nail into their coffin. These retail brokers will therefore start moving their businesses to other countries and servicing US customers from there, successful examples of which already exist: Dukascopy in Switzerland (which has recently introduced MT4 in addition to their custom platform), ATCBrokers and FXCM in the UK, FXDD in Malta, FXPro in Cyprus etc.
3. The US government in response will do everything possible to prevent US traders from enjoying the benefits of being serviced in other countries by making overseas transactions to personal bank accounts even more controlled and restricted.
4. Those traders who make a living from their trading will then have no other choice but to set up offshore companies for themselves through the Internet (contrary to a popular belief, this doesn't cost much - one can get an offshore company with an overseas bank account for as low as \$1,500).
5. As all trading accounts will be on the companies' names, the US government may heavily lose on the income tax they collect from US Forex traders. Thus, trying to harm the average Joe trader and make the banks and futures brokers richer at his expense, the government is harming themselves in the end.

Since recently, America has been turning from a land of opportunities to a land of restrictions. Very sad to see this, indeed.

Yours sincerely,
Thien Nguyen

P.S. RIN 3038-AC61

From: gmoффatjr@verizon.net
Sent: Friday, March 19, 2010 6:34 PM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: REGULATION OF RETAIL FOREX

Secretary Stawick;

I am opposed to forex leverage limitation changes.
ID No. RIN3038-AC61

G.A. Moffat

From: Luis De La Rosa <luisdlr85@hotmail.com>
Sent: Friday, March 19, 2010 7:47 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

RIN 3038-AC61

La CFTC propone reducir el apalancamiento máximo en el trading de divisas a **10:1, esto es casi como decir que se acabarán con las cuentas minoristas en EE.UU.** ya que para operar se necesitará un **capital mínimo muy superior** al que ofrecen hoy día la mayoría de brokers y FDM's. Desde mi punto de vista lo que **provocará** será el **movimiento de las cuentas de los traders a otros países y un socavón enorme en la industria Forex en USA.**

Dando una opinión muy personal, ¿no puede cada uno decidir y hacerse responsable del riesgo que desea asumir? Una regulación de las transacciones e intermediarios es indispensable pero cada trader se supone es lo suficientemente maduro como para decidir que riesgo tomar con su dinero.

La respuesta de los brokers estadounidenses ha sido unánime. **Los brokers más importantes del país han rechazado de pleno esta propuesta, cosa no sorprendente, pues el 90% de sus cuentas pertenecen a traders minoristas y esta propuesta de reducir el apalancamiento a 10:1 resultaría en el cierre de las compañías por bancarrota o su traslado para establecerse en otros países.**

Invite your mail contacts to join your friends list with Windows Live Spaces. It's easy! [Try it!](#)

From: Alex Bobinski <ABobinski@GAINCapital.com>
Sent: Friday, March 19, 2010 8:07 PM
To: secretary <secretary@CFTC.gov>
Cc: Glenn Stevens <GStevens@GAINCapital.com>; Penner, William <WPenner@CFTC.gov>; Alex Bobinski <ABobinski@GAINCapital.com>
Subject: Gain Capital - CFTC Comment Letter on Proposed Rules
Attach: Gain Memorandum - CFTC Comment Letter on Proposed Rules (Submitted).doc

Dear Mr. Stawick:

Gain Capital Group, LLC ("GCG"), doing business as Forex.com, appreciates the opportunity to comment on the Commission's proposed rules regarding the regulation of off-exchange retail foreign currency transactions. Our comments on the Proposed Rules are in the attached word document.

Respectfully yours,

Alex Bobinski
CFO and Compliance Director

March 19, 2010

Via E-mail: secretary@cftc.gov

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Comments on Proposed Regulation of Retail Foreign Exchange Transactions and Intermediaries

Dear Mr. Stawick:

Gain Capital Group, LLC ("GCG"), doing business as Forex.com, appreciates the opportunity to comment on the Commission's proposed rules regarding the regulation of off-exchange retail foreign currency transactions ("forex"). GCG is registered with the Commodity Futures Trading Commission ("CFTC") as a Futures Commission Merchant ("FCM"), and is a Forex Dealer Member ("FDM") of National Futures Association ("NFA"). GCG is also a member of the Foreign Exchange Dealers Coalition ("FXDC"), an organization which is comprised of the leading FDMs and which advocates for responsible regulation and customer protection within the retail foreign exchange industry before the CFTC and the Congress. GCG has been a staunch advocate in support of the CFTC's goal of creating a well-regulated domestic retail forex market that is more transparent and provides increased customer protections. As such, GCG supports many of the provisions and believes that RIN3038-AC61 (the "Proposal") will go a long way towards achieving this goal. However, GCG believes that the Proposal contains certain provisions that are inconsistent with the intent of the Proposal as follows:

Security Deposits:

GCG believes that the Proposal regarding "Proposed Regulation 5.9 – Security Deposits for Retail Forex Transactions," that if adopted as part of the final rules will have a devastating impact on the retail forex industry, drive retail customers largely overseas, and in essence cancel out the many positive intentions included in the Proposal. This provision, "Proposed Regulation 5.9 – Security Deposits for Retail Forex Transactions," would restrict leverage on retail forex transactions to a level of 10:1, which is a 90% reduction from the present maximum leverage level of 100:1 permitted under Section 12 of NFA's Financial Requirements. See **Appendix A**. Although GCG supports the CFTC's desire to protect retail customers and the financial integrity

of FCMs/FDMs, GCG believes the current rules in place as implemented by NFA in November 2009 and current industry practices adequately address these objectives.

First, GCG firmly believes the financial integrity of FCMs/FDMs is important to the integrity of the industry as a whole and the protection of its participants. Currently, this objective is primarily addressed by requiring each FCM/FDM to maintain a minimum capital requirement of at least \$20 million. Additionally, an FCM/FDM must take additional capital charges for any net exposure to foreign currencies which range from 6% to 20%. Finally, the trading platforms operate programmatically to identify and /or liquidate client position(s) in breach of minimum security deposit requirements ensuring that a customer's maximum potential loss is limited to their funds on deposit. These regulations and operating practices help to ensure forex counterparties against absorbing losses of defaulting customers which, if significant, could affect the counterparty's capital and put the funds of other customers at risk. In addition to these stringent measures, it should be noted each customer has the ability to trade at a security deposit requirement level and/or request the FCM/FDM to set their account at a security deposit requirement level that is less than the current maximum requirements established by NFA.

Should the 10:1 leverage provision be adopted, U.S.-based forex dealers will not be able to compete with competitors from overseas (primarily in the United Kingdom where the FSA has no comparable leverage limits for forex dealers). Many of these customers may choose to trade with foreign, unregulated dealers in other jurisdictions offering more desirable security deposit requirements thus leaving them susceptible to fraud outside the protections of any U.S. authority.

Finally, the consequences of adoption of the 10:1 leverage proposal will also result in the loss of thousands of jobs in the U.S. forex industry as well as associated domestic marketing expenditures which we estimate at \$500 million or greater.

Based on the foregoing, as well as in the best interest of U.S. retail customers, GCG respectfully submits that the CFTC withdraw proposed regulation 5.9 and maintain the NFA's current leverage regime (100:1 major currencies, 25:1 on exotic currencies) that went into effect on November 30th of 2009.

Registration:

GCG supports the registration of Introducing Brokers ("IBs"), Commodity Pool Operators ("CPOs") and Commodity Trading Advisors ("CTAs") with the CFTC. However, GCG does not believe that Introducing Brokers must be solely restricted to becoming Guaranteed Introducing Brokers ("GIBs"). As is the case with IBs engaged in introducing customers transacting in futures, the IB has a choice to become an Independent IB or Guaranteed IB subject to oversight of the CFTC, NFA and applicable regulations. Not allowing IBs engaged in the introduction of forex customers to become Independent IBs is inconsistent, and arguably anti-competitive, with existing registration options available to IBs introducing futures customers.

Additionally, allowing an IB to be independent and maintain multiple relationships with more than one FCM/FDM increases competition amongst FCMs/FDMs to provide the best available services to its customers and attract new customers. Equally important, it provides options for the U.S. retail customer to choose FCMs/FDMs, trading platforms and services that may be best suited for their intended trading activities. Finally, requiring Independent IB's

engaged in the introduction of forex accounts to meet stringent net capital requirements and submit annual audited financial statements to the regulators provides the U.S. retail customer protection as well. All of this directly benefits the U.S. retail customer.

For the reasons noted above, GCG firmly believes that providing for an Independent IB registration category is in the best interest of the U.S. retail customer and the forex industry as a whole. As such, GCG respectfully submits that the CFTC amend the Proposal outlined in 5.18(h) to allow for an Independent Introducing Broker registration category in addition to the GIB option.

Account Disclosures:

GCG supports the concept of providing adequate risk disclosures to customers to ensure they have a full understanding of the attendant risks and leverage involved in these transactions so that they may make an informed decision. However, GCG does not believe that requiring an FCM/FDM provide the (i) total number of retail forex accounts maintained (ii) the percentage of such accounts that were profitable and (iii) the percentage of accounts that were not profitable for four quarters meets this objective.

We believe that the intent of the proposed disclosures is to inform the client of the inherent risks of engaging in a leveraged transaction. To accomplish this objective, GCG suggests an alternative approach that would require a text disclaimer identifying those inherent risks.

GCG believes the Proposal may ultimately have the opposite effect of the perceived intended purpose. First, GCG believes the Proposal assumes there will be a disproportionate percentage of accounts that were not profitable to those that were profitable. Even if that were the case for a particular point in time, that trend could reverse over time and have the opposite effect of the intended disclosure. Additionally, the mere fact that a percentage of customers were profitable, regardless of the percentage that were successful, might entice and/or validate a customer's decision to open an account and trade. As such, GCG recommends that any disclosures be in the form of text, presented to the client in advance of trading and describe the inherent risks involved with leveraged investments. As a final point, this is consistent with the manner that other comparable regulators and industries address this disclosure issue as well.

For the reasons noted above and in the best interest of the U.S. retail customer, GCG respectfully submits that the CFTC amend its Proposal outlined in 5.18(i) to allow for an appropriate text disclosure discussing the inherent risks of leveraged investments and omit the requirement to disclose account details as presented in the Proposal.

GCG commends the CFTC and its staff for putting forth proposed retail forex requirements that will provide greater protection to forex customers and regulatory certainty to firms engaging in retail forex transactions. As always, GCG stands ready to assist the CFTC in this endeavor. If you have any questions concerning this letter, please do not hesitate to contact me at (908) 731-0705 or gstevens@gaincapital.com.

Respectfully submitted,

Bedminster One
135 US Highway 202/206, Suite 11
Bedminster NJ 07921

Glenn Stevens
C.E.O.

cc: William Penner (wpenner@cftc.gov)

Appendix A

Notice I-09-18

September 24, 2009

Effective Date of Amendments to NFA Financial Requirements Sections 11 and 12 and the Interpretive Notice Regarding Forex Transactions

NFA has received notice that the Commodity Futures Trading Commission has approved changes to NFA Financial Requirements Sections 11 and 12 and related changes to the Interpretive Notice titled "Forex Transactions." The amendments adopt an alternative net capital requirement for Forex Dealer Members (FDMs) and eliminate the existing exemption from the security deposit requirement. These changes will become effective on November 30, 2009.

The amendments to Section 11 revise the existing alternative net capital requirement that is based on an FDM's liabilities to customers.¹ As of November 30, 2009, the alternative requirement is \$20 million plus 5% of the amount of customer liabilities over \$10 million. FDMs that exclusively use straight-through-processing for their customer transactions are exempt from this alternative requirement and need only maintain the \$20 million minimum (unless the firm is subject to a higher requirement under FR Section 1).

The amendments to Section 12 eliminate the existing security deposit exemption for FDMs that maintain 150% of their required net capital. This means that, beginning on November 30, 2009, all FDMs must collect a customer security deposit of at least 1% for the currencies listed in Section 12 and at least 4% for all other currencies.²

NFA's submission letters to the Commodity Futures Trading Commission include of the revised language and more detailed descriptions of the changes. You can access electronic copies of the February 23, 2009 submission letters at http://www.nfa.futures.org/news/PDF/CFTC/FRSec11_IntNotc021909.pdf (for the changes to Section 11) and http://www.nfa.futures.org/news/PDF/CFTC/FRSec12_IntNotc021909.pdf (for the changes to Section 12).

Questions concerning these requirements should be directed to Valerie Kretschmer, Manager, Compliance (vkretschmer@nfa.futures.org or 312-781-1290) or to Sharon Pendleton, Director, Compliance, (spendleton@nfa.futures.org or 312-781-1401).

¹ The term "customer" does not include eligible contract participants.

² The currencies that qualify for the 1% security deposit are the British pound, the Swiss franc, the Canadian dollar, the Japanese yen, the Euro, the Australian dollar, the New Zealand dollar, the Swedish krona, the Norwegian krone, and the Danish krone.

From: KW <kennethwebb1978@aol.com>
Sent: Friday, March 19, 2010 8:32 PM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: Should be for investors not broker/government!

The leaders are supposed to find great returns for investors not ask for more with an already choppy and skeptical investment such as FOREX!
Seek the least from an investor and make them happy not collude with the brokerage against investors!

From: KW <kennethwebb1978@aol.com>
Sent: Friday, March 19, 2010 8:34 PM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: regulation of retail forex

RIN 3038-AC61
That last message was for this identification

From: mjbfan@126.com
Sent: Friday, March 19, 2010 9:26 PM
To: secretary <secretary@CFTC.gov>
Subject: Public Comment Form

Below is the result of your feedback form. It was submitted by
(mjbfan@126.com) on Friday, March 19, 2010 at 21:25:52

commenter_subject: against capping leverage at 10:1

commenter_frdate: January 20, 2010

commenter_frpage: 3282

commenter_comments: against capping leverage at 10:1

commenter_withhold_address_on: ON

commenter_city: Shaoxing

From: .. <pointtrue@gmail.com>
Sent: Friday, March 19, 2010 9:57 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Dear Sir/Madam,

I am pleased to hear that you are seeking public comment on proposed regulations concerning Forex trading.

I believe that the change of the leverage from 10 to 1 will protect all customer's benefit ,so I support the proposed leverage reduction .

Your sincerely,

Xiaobin Zhang

My identification number RIN 3038-AC61

3/20/2010

From: Maly Sayaovang <malysxang@gmail.com>
Sent: Friday, March 19, 2010 10:35 PM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: Regulation of Retail Forex : identification number RIN 3038-AC61

David Stawick,
Secretary, Commodity Futures Trading Commission,
1155 21st Street, NW,
Washington, DC 20581

Congratulation for your proposal to make a change in the Forex Retail Industry the American people enjoyed for many decades ago. Have you ever figured out that THESE CHANGES WILL EFFECT FOREX TRADERS AND THE AMERICAN ECONOMY ?

Should the 10 to 1 leverage rule proposed by you the CFTC be adopted:

a) Funded account currently in the U.S. system will definitely and immediately shifted to over seas?

b) Thousands and thousands of jobs in this business will be eliminated, or move out of the U.S. ?

FYI, I am a full time trader who live here in the U.S. and a small investor. I will wait for your proposal to take effect so I can send my funding offshore.

Thanks,

Maly S.

From: David Thomas <davidwt@usa.net>
Sent: Friday, March 19, 2010 11:01 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Although I am responding specifically to the detrimental leverage regulation for retail forex accounts in the US, I do want to first say that the other regulations proposed regarding Retail Forex Dealers (RFDs) would definitely be worth having and am glad for those proposed regulations.

Unfortunately, the regulation regarding restriction of leverage to 10:1 would negate the necessity of the other regulations, simply because all RFDs will close business, most likely declaring bankruptcy, leading to tremendous losses of traders' money. Why? Simply because retail forex trading cannot be conducted under such leverage restrictions.

Please realize that Futures traders do not have such restricted leverage and they have the potential to lose more than what is in their trading account. It is not possible for forex traders to lose more than what is in their account and hence are already protected.

Please simply let the NFA rules regarding leverage be maintained as they are sufficient and equitable.

As a last point, Congress never even hinted for the CFTC to neither make leverage restrictions nor cause the retail Forex industry to cease. Please pass the other regulations and leave leverage as is declared by the NFA.

David Thomas
West Valley City UT, 84128
davidwt@usa.net

From: Rick Speer <rjs5035@gmail.com>
Sent: Friday, March 19, 2010 11:06 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

I am writing to voice my concern against the proposed rules call for restricting leverage to 10-to-1. As an individual part time trader of currencies through a mini-forex account I believe this is a outrageous reduction in leverage. Every trading platform I have investigated as well as the companies offering said products clearly state the risks involved with trading currencies. I really hope for myself and other traders that such restrictions will not be implemented. Thank you for taking the time to read over my thoughts on the situation.

-Rick Speer

From: baranko@juno.com
Sent: Friday, March 19, 2010 11:14 PM
To: secretary <secretary@CFTC.gov>
Cc: baranko@juno.com
Subject: Regulation of retail Forex ID # RIN 3038-AC61

Dear Gentlemen,

I have a position on the new regulations proposed for forex trading,RIN 3038-AC61.

The roll of government is to ensure a level playing field in the various markets so that the large company and the individual can compete as close to evenly as possible. The roll of government is to ensure that the information needed to trade profitably is equally available and that the brokers and dealers are providing a fair, "honorable" and transparent business service. The roll of government is not to protect people from making stupid decisions, as the examples of government not succeeding in that are endless.

My thoughts are:

1-Registering brokers and dealers and establishing a code of conduct is a good idea.

2-Implementing capital requirements for the Brokers/Dealers, good idea.

3-Limiting the leverage available; I disagree with because it would make the desire to open an offshore account with a foreign company very tempting. This would damage American Brokers and Dealers and subject US citizens to deal with Brokers/Dealers that might not be regulated as well as US brokers/dealers. I feel that the markets should be the de terminating factor in setting the leverage levels.

Thank you for your consideration of my thoughts.

From: Dennis Clapp <dmclapp@gmail.com>
Sent: Friday, March 19, 2010 11:53 PM
To: secretary <secretary@CFTC.gov>
Subject: Proposed Leverage Change

Dear CFTC,

Please do not change the leverage. Let buyers beware. Enough with the government involvement in markets.

Dennis Clapp
310-804-8343